

THE FEDERAL WORKFORCE: LEGISLATIVE PROPOSALS FOR CHANGE

HEARINGS

BEFORE THE
INTERNATIONAL SECURITY, PROLIFERATION AND
FEDERAL SERVICES SUBCOMMITTEE

OF THE
COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
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MARCH 18 AND 19, 2002

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THE FEDERAL WORKFORCE: LEGISLATIVE PROPOSALS FOR CHANGE

MONDAY, MARCH 18, 2002

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:36 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Subcommittee, presiding.

Present: Senators Akaka and Voinovich.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. The Subcommittee hearing will come to order. This morning, we begin 2 days of hearings on the Federal workforce and several legislative proposals offered by Senator George Voinovich and Senator Fred Thompson.

We have with us a distinguished group of witnesses both today and tomorrow who will share their insights on how to best meet the challenges of recruiting and retaining the people that agencies need to carry out their missions. I thank you all for being with us today and I wish to extend a special hello to John Priolo, Director of the Hawaii Chapter of the Federal Managers Association, who will testify on behalf of his association's President, Michael Stiles.

Unfortunately, Senator Cochran and Senator Thompson are unable to be with us today. However, I am delighted to be joined by my colleague, and I would say buddy and good friend, the Senator from Ohio, who has championed the importance of a strong Federal workforce. I appreciate his support today, just as I was pleased to support him during the many hearings he held on these issues.

I will not recount statistics or talk about my concern over the loss of critical institutional knowledge, and I leave the discussion of the bills to our panelists. I will, however, talk about the men and women who make up our government's workforce. I am pleased that in the wake of the terrorist attacks last fall, anti-government rhetoric has abated and a higher percentage of young Americans say they would consider Federal service as a job option.

We saw that for every essential service these attacks disrupted, the government responded quickly and effectively. Our Nation's recovery is being aided through the talents and professionalism of our Federal workforce, who are selflessly supporting the efforts of armed forces abroad. After September 11, more than 2,100 Federal employees were deployed in disaster response teams, and to this

day, thousands of Federal employees are responding to the war on terrorism as a part of their normal duties.

The Federal workforce is this Nation's backbone and I think it is time to drop the pejorative use of the word "bureaucrat." Our hearing continues the dialogue on what needs to be done to make government service more attractive to young people and to inspire and compensate those who have chosen government as their job choice.

Just last week, this Subcommittee heard from agency and expert witnesses that the lack of employees with language, science, and technical skills threaten our national security. That hearing focused on S. 1800, a bill I introduced with Senators Durbin and Thompson and cosponsored by Senators Cochran, Collins, and Voinovich. As we examine the Thompson and Voinovich legislative proposals, I want to make sure that the bills will not cause harm to either employees or their agencies.

Federal agencies have been operating under flattened budgets for years and the administration's fiscal year 2003 budget proposal, after removing funding for homeland security and defense purposes, would see this discretionary spending decline by 1 percent. This leaves no room to fund recruitment, retention, and training programs. Moreover, the lack of parity between the pay of civilian workers and military service members sends the wrong message to prospective and current Federal employees.

I support good management and I want to make sure that we have the right people and the right skills to operate the government in an effective, efficient, and economic manner. But I do not see how we can expect young people to consider government employment if we are unable to provide them with comparable pay, benefits, and opportunities for training.

How do we advertise the government as an employer of choice if agencies lack funding for incentives, including money to implement fully the student loan repayment program? How do we balance recruitment and retention goals with this administration's goals for competitive sourcing? These are among the questions I hope we will answer today. There must be a commitment from the highest levels of government and a willingness to allocate the resources necessary to achieve a strong and vibrant workforce.

Again, I wish to thank our witnesses for being with us today. You deserve our gratitude for your commitment to our Federal service system, and together, we face this new kind of national emergency in our country.

Now, I would like to yield to Senator Voinovich for any statement he may have.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Thank you, Mr. Chairman. I want to extend my deep appreciation to you for holding this hearing on The Federal Workforce: Legislative Proposals for Change. I would also like to welcome our witnesses and I want to thank you for being here today.

Mr. Chairman, I would like to congratulate you on the hearing that we held last week on S. 1800, the homeland security workforce bill you introduced with Senators Durbin and Thompson this past

December. I am very happy to be a cosponsor of that legislation. I think the witnesses offered some excellent testimony on the national security aspect of the human capital crisis, demonstrating again the real urgency of this issue.

As you know, Mr. Chairman, reforming the Federal Government's strategic human capital management has been my highest priority as a Member of this Subcommittee and I know you share my concern over this human capital crisis. You have been an important leader on this issue and I want to thank you personally for attending all of the hearings I held on human capital during the time that I was Chairman of the Oversight of Government Management Subcommittee. It is encouraging to me that we have forged a productive bipartisan partnership on this issue, which is so important to our Nation.

Because of your participation in those hearings, we were able to produce a report called "Report to the President: The Crisis in Human Capital," summarizing the hearings that we had and making recommendations for action, and that was the report that we were able to give the incoming new administration, a benchmark on our progress at that time.

In addition to the Subcommittee's activities, other government offices and agencies are addressing the human capital crisis, which is very encouraging, and several have joined us today. In January 2001, Comptroller General David Walker designated strategic human capital management as a governmentwide high-risk area, and he has also been elevating the profile of and developing solutions to this problem as a top priority. To quote Mr. Walker's admonition, and David, this is going to be famous, "Too often, we have treated Federal employees as costs to be cut, rather than assets to be valued." I think that is really it in a nutshell. That is what our past has been and we need to change that.

Last August, the Bush Administration prioritized strategic management of human capital as its No. 1 governmentwide management initiative. OPM Director Kay James has done an excellent job moving her agency and the Federal Government in the right direction when it comes to Federal personnel issues. Kay, I really appreciate how conscientious you have been in picking the ball up and carrying it, and we are pleased that you are here today.

Mr. Chairman, I have also been working closely with other Federal organizations, particularly our employee unions, organizations that are important to our efforts to address the Federal Government's human capital challenges. Bobby and Colleen, I am grateful for the partnership that we have forged during my time here in the U.S. Senate.

I would like to take this opportunity to state publicly that my legislation is just a down payment on reform. I would like to encourage you, Mr. Chairman—and you have already spoken about this—to hold hearings later this year on issues such as pay comparability and compensation, health care benefits, and the performance of Federal agencies.

Just last week, Steve Barr's "Federal Diary" column in *The Washington Post* offered another example of how far Federal pay lags behind comparable positions in the private sector—and often among agencies—citing that there was a 40 percent gap between

the SEC and other banking agencies. A comprehensive examination of these important but long-overlooked aspects of the human capital crisis and a strategic plan for action are urgently needed as next steps in the process of reforming the Federal Government's personnel systems. I know, Kay, you have put together a draft to try to respond to that problem, and it is going to cost more money. Let us face it. We are just going to have to be realistic and face up to it.

I would also like to acknowledge Carol Bonosaro of the Senior Executives Association. Carol has provided a number of excellent recommendations for strengthening our legislation, as has John Priolo of the Federal Managers Association.

A great deal of action has been taken to address the human capital crisis over the last several years, and we are building momentum daily for the passage of reform legislation in Congress. The continued involvement of these people and organizations and many other stakeholders is critical to our success in solving these problems. I would particularly like to thank Pat McGinnis for her leadership on the human capital crisis as President for the Council for Excellence in Government. Pat has just done a wonderful job.

Many people and organizations have had an impact on the provisions in our bill. As you know, my original proposal, S. 1603, was improved several times before I introduced it in October. Since then, we have continued to solicit the advice of many stakeholders, including a number of them that are here in this room. Currently, I am working on a draft manager's amendment that combines part of S. 1603 with S. 1639, the administration's human capital proposal, which I introduced last November. I believe this compromise—representing the efforts of the Bush Administration, our colleagues on this Subcommittee, and many others that are here—is really something that we can be proud of.

It is my sincere hope that we can advance legislation through the Governmental Affairs Committee that will incorporate the best elements of my proposal and the broad array of others that have been introduced in the 107th Congress, such as S. 1800. I am extremely optimistic that we can enact legislation this year that will really make a difference to the Federal workforce.

All the bills that I have discussed, as well as several others, including important flexibilities and innovative programs designed to make the Federal Government a more attractive employer for applicants. In the interest of time, Mr. Chairman, as you did, I am not going to get into the specifics of this legislation, but I would mention that a lot of work has gone into it. If you want to make change, you have to first underscore urgency for change and then you have to have a vision, and I think that we do have a vision. Now we have got to make sure that people understand that there is an urgency to achieve the change we envision.

Senator Akaka, last week you mentioned the words of former Secretary of Defense James Schlesinger, who testified before our Subcommittee last March when he said, "Fixing the personnel problem is a precondition of fixing virtually everything else that needs repair in the institutional edifice of the U.S. security policy." He was a member of the U.S. Commission National Security in the 21st Century.

Then last week again, Lee Hamilton, another member of that Commission, reiterated this point before this Subcommittee when he said, "although there has been renewed public interest in national security work since September 11, the U.S. Government faces a serious problem in attracting and retaining talented people for key jobs in national security departments and agencies." That conclusion was backed up by a poll that the Partnership for Public Service conducted. People are more interested in government today as a result of September 11, but the issue is, are we going to be able to take advantage of that renewed interest to recruit them?

Each day, it seems we learn of a new example that verifies this testimony and demonstrates anew the enormous impact of the human capital crisis on our national security and our economic prosperity. At the Immigration and Naturalization Service, there are only 2,000 agents to enforce immigration within U.S. borders. This has resulted in an enormous workload that requires the INS to focus on their most serious cases, such as deportation of immigrant felons. This leaves little time to round up student no-shows, including at least two of the September 11 hijackers.

In no way, Mr. Chairman, do I condone the fact that the INS failed to properly screen the applications of these evil-doers. However, the human capital problem INS faces must be addressed in a priority fashion if we are to prevent similar instances from occurring again.

As I mentioned earlier, at the Securities and Exchange Commission, staffing levels have failed to keep pace with the agency's growing workload and salaries are not aligned with other Federal agencies due to a lack of resources.

At the Central Intelligence Agency, Director Tenet in recent testimony before Congress said that, within 3 years, between 30 and 40 percent of his workforce will have been there for less than 5 years, and he proposed overhauling the compensation system to keep the "best and brightest," and those with more experience.

Last week, Administrator Joe Allbaugh of the Federal Emergency Management Agency, testified before the Environment Committee that he is probably going to lose 55 percent of his workforce in the next 2 to 3 years. And he said, after September 11, many of them, as I am sure is the case at a lot of other Federal agencies, have basically said, look, I reevaluated my life. I am retiring. Many of them were not thinking of retiring. But now they are going to take early retirement to spend more time with their families.

So this is a real crisis that we need to face up to if we are going to deal with our homeland security and our war against terrorists abroad. I am very pleased, Mr. Chairman, that you are holding the hearings today and tomorrow, and I hope that our colleagues will understand how urgent this situation is so that we can move on with this legislation. Thank you very much.

Senator AKAKA. Thank you very much, Senator, for your urgent statement here.

Our first panel needs no introduction, but before we begin, I wish to thank both of you for the outstanding support you and your staff provide to this Committee and this Subcommittee. I ask that you limit your oral statements to 5 minutes. However, please be as-

sured that your full written statements will be made a part of the record.

Director James, you may now proceed.

**TESTIMONY OF HON. KAY COLES JAMES,¹ DIRECTOR, OFFICE
OF PERSONNEL MANAGEMENT**

Ms. JAMES. Thank you, Mr. Chairman and other distinguished Members of the Subcommittee. Thank you very much for inviting me here today and for holding these very important hearings to bring these issues to the forefront of the American people and to Members of Congress and to all those who are interested in our Federal workforce.

Among the goals that I identified when I was confirmed for this position were that we would aggressively go after recruiting the best and the brightest in public service and expediting streamlining the Federal Government's hiring process. Immediately after being sworn in, I reoriented the focus of our agency and OPM began to provide tailored assistance to agencies governmentwide through strike forces staffed by some of the best career professionals that this country has. They are equipped with outstanding skills and have been providing service to our agencies around the Federal Government.

Since September 11, however, the world has changed and OPM has accelerated the pace of our activities to support the growing human capital demands across government. Consistent with the pledge that I made before you in June, we are working to place tools in the hands of managers responsible for reshaping their workforces to meet current and emerging needs.

The legislation that we are discussing today furthers these objectives and is consistent with the pledge that I made to ensure that agencies are accountable to merit principles and other civil service core values, whether the agency is exempt from or bound by the traditional civil service system. I want to acknowledge and offer appreciation for the work of Senators Lieberman, Akaka, Thompson, and Voinovich, who are key leaders in this legislative effort. Without your leadership, I am not sure we would be at this place and the Federal civil servants would not be well served, and so thank you very much.

As you all know, good government is not a partisan issue. This Committee on Governmental Affairs has a long history of working in a bipartisan manner to improve the operation of government. Indeed, this Committee oversaw the enactment of the Government Performance and Results Act and the Clinger-Cohen procurement reforms, and now the Committee has the opportunity to move forward on reforms to improve the way we manage the people who serve in the Federal Government, the people we need to successfully wage the war against terrorism and to protect our security at home.

In that spirit of cooperation, David Walker, who has provided so much leadership on this issue at the General Accounting Office, has agreed to work with OPM and OMB on a common set of human capital management standards for Federal agencies. This

¹ The prepared statement of Ms. James appears in the Appendix on page 77.

collaboration between the Legislative and Executive Branches, I believe, promises improvements which will lead to better management of the Federal workforce and will result in shared measurable criteria for judging that performance, and so David, I wanted to thank you this morning for your leadership on these very important issues and for the work that we have been able to do together.

But in addition to clear standards and assistance that OPM is providing, our agencies and managers must have greater flexibility to manage their workforces effectively to keep high performance on the job and to compete successfully in the market for talent. Over the last 2 months, OPM and OMB have worked in partnership to train over 500 senior managers on the many flexibilities that already exist. The legislation before you today provides a very vital step toward giving Federal agencies the additional tools that they need.

Many of the changes are technical fixes that remove barriers to efficient management and allow even better use of the flexibilities currently in place. Two of the bills, S. 1612 and S. 1639, contain proposals developed by the administration. S. 1603 includes many of the same provisions but differs in some ways. I will briefly outline the specific Federal employee management reforms that we at OPM believe to be essential, summarizing my written statement. I respectfully request, and you have already granted that we should include that.

There are many. I will just mention them because of time, and I would also say that I am very pleased with the level of cooperation that exists between staffs. As we work through this, I feel confident that we will be able to resolve those and end up with one bill we can all support.

As you know, we are talking about voluntary separation incentives, recruitment and retention incentives, relocation payments, and new hiring flexibilities, and we want to do all of this within the context of making sure that core merit system principles are protected, that veterans' preference is, in fact, protected, and we also know that we have a lot that we need to do to promote and encourage and look at how we treat our senior executives.

In closing, Senators, I would just say that there is a lot of work to be done and that, again, I am very encouraged with the level of cooperation that exists on these important issues. We have got to keep this issue before the American people, and I think with the leadership that you are providing, we can do that and we will get legislation that we can pass.

Senator AKAKA. Thank you very much, Director James, for your statement.

Mr. Walker, you may proceed with your statement.

**TESTIMONY OF HON. DAVID M. WALKER,¹ COMPTROLLER
GENERAL, GENERAL ACCOUNTING OFFICE**

Mr. WALKER. Thank you, Chairman Akaka and Senator Voinovich. Let me first at the outset thank you for holding this hearing and thank you for both of your leadership in this important area. Clearly, you are making a difference and this is an area

¹ The prepared statement of Mr. Walker appears in the Appendix on page 95.

where we critically need to make additional progress as quickly as possible.

As Senator Voinovich mentioned, people represent our most valuable asset. Government is a knowledge-based enterprise. People are the source of all knowledge. It is time that we recognize that and it is time that we come into the 21st Century with regard to our strategies, policies, and practices dealing with our most valuable asset, namely our people.

As you know, GAO designated strategic human capital management, or I should say the lack thereof, as a high-risk area in January 2001. Significant attention has been given to this area. That is appropriate. When we put something on the high-risk list, we want to bring light to a subject. With light comes heat and with heat comes action, and action is exactly what is needed in this area.

I am pleased to say that there is a lot of additional attention and increasing momentum to take necessary steps in this area. The President in August 2001 made strategic human capital management the No. 1 item on his management agenda. That was also a positive first step. That was, in part, due to the encouragement of Director James, and I am sure Director Daniels from OMB, as well, and I commend them for that.

We have said all along that it is going to take many players working together collaboratively to make real progress in this area, and we have a lot of players here today and others that are not able to be here with us today but some of which will be here tomorrow who are contributing positively in that regard.

In GAO, we have said we need to take a three-step approach. First, agencies need to do everything that they can administratively. Eighty percent-plus of what needs to get done can be done within the context of current law. Agencies need to get on doing it.

Second, there need to be incremental legislative reforms that provide management with reasonable flexibility, yet incorporate adequate safeguards to prevent abuse of employees.

And third, we need to move towards comprehensive civil service reform under which more decisions in the Federal Government are based on the skills, knowledge, and performance of the individuals rather than the passage of time or the rate of inflation.

Senators, I found last year, for example, that over 80 percent of the billions of dollars that were appropriated by this Congress for compensation was on auto pilot. It was automatically predetermined who was going to get the money, based upon cost-of-living increases and based on locality pay, and it had absolutely nothing to do with performance. That is unacceptable. It is unacceptable for any enterprise and it is unacceptable, I am sure, from the standpoint of the taxpayers, as well. So ultimately, we are going to have to take that issue on.

Some agencies are making progress administratively, but not enough. We need to make more progress in this area. One area that is critically important and where more progress needs to be made is in the area of performance management. Most agencies do not have modern, effective, credible, and properly validated performance appraisal systems that link their strategic plan, their core values, and desired outcomes with both executive-level per-

formance appraisals all the way down cascading within the organization. This is critically important to maximize performance and assure accountability. It is also critically important to make sure that we are making progress to effectuate the needed cultural transformation in government.

We at GAO are trying to do three things. One, help others to help themselves in this critically important area. We earlier published a self-assessment guide. We are today publishing a new strategic human capital model that is available on our website. We have obtained input from a variety of parties, including OPM and OMB, of which we are very appreciative, and I look forward to working with Director James and Director Daniels and others to try to see if we can come up with a single set of tools and methodologies which the Executive Branch may end up mandating and which we can help to make sure that people are making appropriate progress in this area.

Second, we are conducting a variety of audits and evaluations in this area for the Congress in order to assess to what extent people are making progress.

And third and not least, we are leading by example. We are practicing what we preach, and I think that is critically important.

I would say that the act that is before us, the Human Capital Act today, represents a positive step, and as Senator Voinovich said, a first step in what will be a long and winding road. But it is a positive first step and I commend you for it. There are a number of positive provisions in this legislation that I think would help meet the two objectives that I mentioned, provide management reasonable flexibility and at the same point in time incorporating appropriate safeguards to prevent abuse.

There are several areas that I would like for you to consider as you look forward on this legislation, items that you may want to consider incorporating.

First, I think consideration should be given to providing OPM the authority to provide class or agency-specific broadbanding for certain critical occupations. It is important that in doing so, however, that agencies understand what skills and knowledge they need and that they have appropriate performance management systems to properly implement broadbanding.

Second, I believe that it is important in looking at the early out and buyout authority that performance be able to be considered in determining who would be granted an early out or buyout. I do not believe that it is appropriate to consider performance in determining what functions or positions would be offered early outs or buyouts. However, I do believe that it is important that management have the ability to say no if one of the top performers wants to exit under this program. It is time that the government start managing based upon dollars and results, not FTEs, and this provision is a positive first step to doing that.

Third, I think it is critically important that independent and objective studies be done of the real pay gap. We have had a tremendous debate for a number of years. It is time that we get the facts. Reasonable people can differ on how best to proceed, but we need the facts on the pay gap.

In addition, we need additional facts on the existing performance appraisal systems that agencies have, and I think a study is necessary there.

And last but not least before I close, Mr. Chairman, I believe the time is coming, if it is not already here, that the Federal Government is going to need to consider whether or not major departments and agencies need to have chief operating officers, individuals who are focused on trying to deal with the basic good government infrastructure issues that are not partisan in nature and that should span administrations. We have a significant amount of turnover among political appointees and it is understandable that political appointees are focused primarily on the President's agenda, the department head's agenda, but somebody needs to be focused on the good government items that span administrations and require extended amounts of time in order to effectively address.

Having chief operating officers who are under performance contracts with a term appointment who might be able to be extended at least one term, I think would represent a positive step to try to make real progress in these areas and to help effectuate the needed cultural transformation in government. These would be in addition to, not in lieu of, the current deputy secretaries, who are properly focused on the President's as well as the Secretary's priorities and agenda, and should be. But there are things that just do not get done under the current system that need to get done. Thank you.

Senator AKAKA. Thank you very much for your statements.

Director James must leave by 10:30, so with your indulgence, Mr. Walker, Senator Voinovich and I will direct our questions to her first, and I will limit my questions also.

Director James, I want to thank you for your statement and for all that you are doing. The bills under consideration today would provide agencies expanded authorities for recruitment, retention, and training. However, the compensation gap between the government and the private sector also plays a critical role in whether people consider a career in government.

I understand that OPM will release a white paper on pay shortly, which I hope will address this problem. Added to the pay issue is the fact that most agencies are unable to use existing authorities for employee incentives because of budgetary constraints. My question is, what do you feel are the most critical funding requirements to address the government's human capital needs?

Ms. JAMES. Thank you, Mr. Chairman. Let me say a couple of things. Yes, we will be releasing a paper fairly soon, and before we can get to the point where we come up with a solution, much as you are doing here today, I think it is important to bring to the attention of the American people and to policy makers the importance of compensation, the outdated system under which we are currently operating, our inability in many cases to be able to tie pay and performance. So the first leg of our very long journey will simply be to ask the question, to raise the issues, and to begin a dialogue.

Second, I would say that in the whole arena of issues facing us right now, recruiting, hiring, retaining employees, that I would not like to place a value on which is more important and where do we need to put the compensation dollars. While we are aggressively

looking for tools and mechanisms for recruiting, I think at the same time we have to make sure that our current employees know the value that we place on them. They have a knowledge base which a new hire would not have. They have experience and they have wisdom.

So at the same time that we are trying to recruit and attract the best and brightest, I think that we have to look at putting resources behind retaining those employees that we currently have. I would not like to rank them and put them in priority order because I think they are all important.

Senator AKAKA. I know you have to leave. I have a final question to you and then I will yield to Senator Voinovich.

The proposals we are reviewing today are intended to allow agencies to better recruit and retain the people they need. However, some of our next witnesses believe that personnel ceilings act as barriers to this objective. How can recruitment incentives be reconciled in the current personnel ceiling limitations?

Ms. JAMES. Well, let me say that in recruiting, particularly people that we need in critical positions in the higher ranks of our government, that the current issue that we have before us with SES pay compression. Sometimes when you bring someone in, it defies logic to explain to them what this system is and when they are brought in at a certain level in a senior position what that means.

I think that those issues have to be addressed in the broader context of total compensation reform. It does not make sense to many individuals, particularly—and I recently had that experience in trying to bring someone in at a senior level and saying, this is your starting salary and will pretty much be your salary for the entire time you are in the Federal Government. Those are issues that we must address.

Senator AKAKA. Let me yield to—

Ms. JAMES. Mr. Chairman, before you yield, I do want to say thank you and that I would request to leave to attend a funeral of a very dear friend. Many of you may remember Elaine Crispin, who was Nancy Reagan's press secretary. I had the privilege of working with her at ONDCP in a previous administration. She was a great woman and her memorial service is at 11 o'clock this morning.

Senator AKAKA. I am sorry to hear that. Senator Voinovich.

Senator VOINOVICH. Kay, we have talked a lot and spent a lot of time together. Would you like to just comment on what provisions of this legislation you think will be the most helpful to you?

Ms. JAMES. I do want to comment on that and I want to comment on one proposal that David Walker has laid before us this morning, as well.

I think that we are absolutely right when we talk about the flexibilities that managers currently have before them. I think it is also important for legislators as they are considering this legislation to understand that these are tried and true. These proposals that they have before them have been tried in pilot projects and been found to be effective, and so as a result of that, they are things that we are ready to take governmentwide.

Which are most important and will be most helpful? I think anything that will help us to attract and maintain employees are helpful and many of those provisions will. I think that the targeted

buyouts are an important measure so that we can have an efficient right-sizing of government and not just downsizing of government, that we can target those buyouts to where they are needed.

I think the provisions that are in the bill for the SES senior managers, where we are able to allow them to get their full bonuses in a year, will do much to encourage those in our senior management ranks, who are doing a fabulous job on behalf of their government, are very important.

I think our ability to pay bonuses to individuals and relocation fees, these are all things that folks are used to getting in the private sector and will help us, I think, to compete aggressively for those individuals so that we are not losing the talent to the private sector and can attract them to the public sector.

I just have one comment, and I know David feels very strongly, and this is newsworthy because David and I hardly ever disagree, ever, and so this is newsworthy because this is one where we do, and that is on the chief operating officers. My take on that is that this is a new administration and this President has designated chief operating officers. What is different, I think in this particular case, is that maybe historically and traditionally, chief operating officers have not focused on management but have focused on advancing the President and/or the Secretary's agenda.

This President, as you know, is the first MBA President and this President cares a great deal about management, and in the portfolio of activities that these now-designated chief operating officers have is the management of these agencies, and as you know, the President has given them five management agenda items, and I think any CEO coming into an organization feels strongly that they would like to have their chief operating officer be the one that is going to be responsible for implementation.

I think that David is absolutely right when he says we need chief operating officers who are, in fact, focused on management agenda items. So we will continue to work through that and I am sure that we can come up with something that will be mutually agreeable to all, and as I said, that is about the only thing I can find that we might disagree on.

Senator VOINOVICH. Thank you very much. I would like to say that one of the concerns that I had, in fact, one of the things that we worked with Mr. Walker on, was a questionnaire for political appointees that the administration was recruiting to find out whether or not they knew anything about management. That is the key—

Ms. JAMES. I do remember some of those questions during the confirmation process, Senator, yes.

Senator VOINOVICH. The problem is, does the Federal Government recruit individuals that appreciate how important management is. That is the big hurdle. I know that Donna Shalala, who headed up the Department of Health and Human Services, said that when she came through her confirmation hearing, no one ever asked her one question about management, not one, and she had one of the largest agencies in the Federal Government.

Mr. WALKER. Can I comment quickly, Senator?

Senator VOINOVICH. Yes.

Mr. WALKER. I am confident that we probably can work something out that would make sense here. I have no doubt whatsoever that this President, that OMB, that OPM, that the cabinet secretaries and the President's management council are committed to making meaningful progress on management issues during this administration. I have no doubt about that.

However, that is this administration and that is these individuals. The issues that we are talking about here will concern every administration, will span every individual who ends up having a responsible position, and I think history has shown that there has not been an adequate amount of sustained attention over time which is going to be necessary in order to make the type of cultural transformation we are talking about, and what we know for sure is it will take more years than the current incumbents are in their jobs.

Senator VOINOVICH. I will say this to you, that I think that setting a precedent is very important and this is very interesting. When I left the governor's office, several of the people who were my cabinet directors stayed on. Governor Taft kept them on because they were talented professionals. For example, in the Department of Transportation, he promoted an individual to the position of Director of Highways. A new administration can set a new tone for what is expected, through actions like these.

I am hoping down the road here in the next year or so, Mr. Chairman, we can start talking about quality management and empowering the people who work in Federal agencies to have more to say about the direction of those agencies. And again, if you get that going in an administration, that can carry over from one administration to the next.

Last but not least, I am going to be meeting with Mitch Daniels today. I am very impressed with what you are doing, Kay. I am very impressed with what Sean O'Keefe did and I am pleased that the administration brought Bob O'Neill in from the National Academy of Public Administration to help them develop their recommendations in the area of human capital. But we still do not have a Deputy Director for Management in the Office of Management and Budget, and I really believe, in spite of the great job that you are doing over at OPM, we need somebody in the administration who concentrates on nothing but the President's management agenda, somebody who gets up every morning and stays up late at night working on that agenda and who can keep hammering away at it and be your partner in getting the job done. I hope that you would encourage the President and Mr. Daniels and others in the administration that we need to get that management person in the Office of Management and Budget.

Thank you. If you want to take off, you can.

Senator AKAKA. Thank you very much, Senator Voinovich.

As I said, you are looking forward to leaving at 10:30 and I see we have a few minutes. I would like to ask you another question, Director James.

Ms. JAMES. Certainly.

Senator AKAKA. It is along the line of this management that Senator Voinovich has been speaking about. As we heard from the Comptroller General of GAO, GAO has developed a new model of

strategic human capital management. This model was developed independently of OMB, OMB's performance ranking scorecard that shows how agencies are meeting the President's management agenda and will aid OMB in evaluating agencies' budget requests.

From what I have heard, the GAO model would provide managers and employees with clearly defined objectives and goals. I would be interested to hear your views on the GAO model——

Ms. JAMES. Certainly.

Senator AKAKA [continuing]. And how you believe it could be integrated into OMB's scorecard approach.

Ms. JAMES. Thank you. The GAO was very gracious in allowing us the opportunity to review that model and we had some input into that. We are still working to make sure that we are not confusing Federal agencies by having standards out there that come from OMB, and from GAO, and they are pulling their hair out and saying, well, which standard do we adopt and how do we know we have made it and how do we turn to green on the President's scorecard, because as you know, this President and all of his managers are taking his management agenda so seriously because you know that you get more of what you measure, and so this President has decided to measure how effectively his managers are adopting the management agenda.

So with that, our staffs have been working to incorporate it and come up with one standard so that we will not offer confusion to the Federal workforce and to managers as they utilize this new tool. What you will probably end up with is the GAO model, and we may add one or two things that we think are important that are not reflected in that model.

But I think basically what you are going to see is we are trying to reach consensus on that in the interest of not confusing the Federal workforce. The model is an excellent one and we very much endorse and support what the General Accounting Office is doing.

Senator AKAKA. You had another comment on that?

Senator VOINOVICH. No, I do not.

Mr. WALKER. Mr. Chairman, if I can note, this is an exposure draft and so, therefore, we will be experimenting and others will be experimenting with this over the next several months, and as a result, this gives us a period of time that we can do exactly what Director James said, see if we can work together towards one that we can all agree with, and I am confident that is going to be possible.

Ms. JAMES. I am, too.

Senator AKAKA. Thank you so much, Director James.

Ms. JAMES. Thank you very much, and I appreciate your indulgence.

Senator AKAKA. You may be excused.

Ms. JAMES. Thank you.

Senator AKAKA. Mr. Walker, I thank you for your patience. I am pleased that you unveiled the GAO strategic human capital model at our hearing this morning. I believe it is a good complement to the OMB scorecard.

My first question is a theoretical one, but because GAO provides nonpartisan assistance to Congress, I thought you might be able to offer an unbiased view. Every administration comes into office with

a specific agenda and I feel that we must separate policy from politics. Friday's *Washington Post* included an article on career attorneys in the Justice Department Civil Rights Division. Let me be clear, I am not commenting on the merits of this issue but rather a statement made by aides to the Attorney General who described the transferring of certain responsibilities traditionally handled by career lawyers to political appointees in this way. I quote from the article, "Aides describe the actions as part of the normal process of a new administration taking over an agency previously led from a different political viewpoint."

Mr. Walker, how can we best achieve reform of the civil service system without imposing changes dictated by political considerations?

Mr. WALKER. Whichever administration is in, they are going to end up having certain priorities that they believe need to be pushed. They are going to allocate resources based upon what they believe those priorities should be and they are going to have certain principles or strategies that they want to try to employ in doing that.

I do, however, believe that it is important to recognize that civil servants represent a vast majority of the Federal workforce. Civil servants are to be professional, objective, as appropriate, and non-partisan in nature. In order for us to be successful in the human capital area, it is going to take the combined efforts and appropriate collaboration between both political and career officials, and, I might add, also between labor and management, whether the employees are organized, then obviously the bargaining unit, if they are not organized, then through other means such as our Employee Advisory Council in our case because we do not have a bargaining unit.

I do not know all the details of that particular situation, Senator. I had some concerns when I read that article, as well, but quite frankly, I do not have all the facts and so it would be premature for me to try to specifically address that situation based on one newspaper article.

Senator AKAKA. Thank you for that response.

You have said on many occasions that agencies already have 90 percent of the flexibilities they need. Your comments prompted some of us on this Subcommittee to ask GAO to review the use of flexibilities currently available to Federal agencies to better recruit and retain Federal workers. However, we know that agencies have used them sparingly, mostly because of lack of resources.

In her written testimony, Colleen Kelley draws attention to the statistic that in fiscal year 1998, less than one-fourth of 1 percent of the Federal workforce received any form of recruitment, retention, or relocation incentives. Do you believe that agencies will be more likely to use the flexibilities offered under these legislative proposals than to use the ones that currently exist, and if so, why?

Mr. WALKER. I believe that this will be a positive step forward and it will help. I also believe, however, that we have got to recognize that it is not a panacea. In some cases, people are not using the flexibilities because they have not been properly educated with regard to what the existing flexibilities are. In some cases, they

have not used the flexibilities because of the priorities that they have set.

For example, we all have a certain amount of money that we have been allocated in order to accomplish our various missions. Unfortunately, many agencies have tended to manage more based on FTEs rather than dollars or results, and in some cases, people have decided to try to maximize the number of FTEs they have rather than deciding that, well, I need to manage to a budget.

For example, at GAO, we do not always use our total FTE limit. Sometimes we make a conscious judgment that we are going to have certain incentives to attract people, certain incentives to retain people, or training, development, other types of things where we are investing in our existing workforce and we may have somewhat fewer people than we are authorized to have. On the other hand, we are investing more in those people that we do have.

So I think it is a combination of education and setting priorities. Let me also say that I think it is personally inappropriate to be managing based on FTEs, period, either way. In other words, I think it is inappropriate to have arbitrary FTE caps. It would be much better if we managed to dollars and managed to results and recognize that, over time, we are going to be much better off if people are held accountable for managing to a dollar budget and managing to desired outcomes and results rather than an historical FTE approach.

Senator AKAKA. Thank you for that response.

You mention in your testimony that GAO has a chief human capital officer. I have a three-prong question for you. Has this approach worked? Were there any problems associated with creating this new position? And if this provision of the bill becomes law, what advice would you have for agencies?

Mr. WALKER. Well, first, I would argue that I am the chief human capital officer at GAO. I think it is appropriate to recognize that if people are your most valuable asset, and in our case, they are really the only asset we have that will help us get our job done on a recurring basis. So I think the agency head clearly has to spend time.

Second, our executive committee, which is comprised of myself, our chief operating officer, our chief mission support officer, and our general counsel, spends from 25 percent to 35 percent of its time on human capital issues. So a significant chunk of the time of our top executive body is spent on human capital issues.

We do have a human capital officer, Jesse Hoskins, who came to us within the last year or so with an extensive background at local and State Government in the human capital area and also had some prior Federal experience. He is doing an excellent job in trying to help us lead by example in this area. But for him to be successful, he has to have the support of the agency head, he has to have support of the executive committee, and he has to have the support of a variety of other players because you need to have line management very much involved in this area, as well. It is not something you delegate to the human capital function.

As far as the provision under this bill, I think it is appropriate to provide flexibility to allow agencies to decide how best to accomplish the intent of this bill as to who is going to be responsible pri-

marily on a day-to-day basis for the human capital activities. At the same point in time, I think it is critically important that we recognize that human capital is fundamentally different than human resources, which was fundamentally different than personnel. We are talking about a strategic position. We are talking about a person that has the ability to deal at the executive level, as a partner sitting at the table, trying to determine what modern, effective, and credible strategies in the human capital area need to be designed and deployed in order to achieve the objectives of the agency.

Some people who are currently in the personnel or human resources function in government may be able to make that transition, but not all. And so it is critically important that you have the right kind of person with the right kind of skills and knowledge to be able to perform that role in order to be effective. That may be the case at some agencies. In some cases, they may have to hire, which we did in our case, to have somebody who can fit that need.

Senator AKAKA. I want to thank you very much, Mr. Walker, for your insights and your advice. I wish I had more time, but we have another panel, so I will yield to Senator Voinovich for his questions to you.

Senator VOINOVICH. We have talked about the fact that, since September 11, there is a new attitude toward working for the Federal Government. We have had a couple of sessions at Harvard, and I have had a chance to talk to some of the students there. Ten years ago, about 75 percent of John F. Kennedy School graduates would go into government. Now, about 30 percent of them are going.

I believe that if we do not capitalize on this new interest in government, not only by young people but also some "dot-com" people that are out there today who may be looking around for more stable employment at mid-level positions, what is your advice on how we would best capitalize on this new opportunity that we have?

Mr. WALKER. First, I think it is a positive step that people are not bashing Federal employees as much as they used to, which is clearly inappropriate and counterproductive. I mean, if they are our most valuable asset, then we need to be doing things to attract and retain good people in the Federal Government and we need to recognize that, that is a fundamental part of us being successful in government.

Second, clearly, the statistics show that there are a lot more people interested in public service of which government service is a subset of public service and the Federal Government is only one level of government. You have obviously had leadership responsibilities at all three major levels of government, Senator Voinovich, and you know that. You have been on the front line.

I think we cannot be deceived by numbers. The fact is while there are a lot more people who are interested in government service, while applications are up, we need to make sure that we have an ability to get back to people in a timely manner to let them know, to acknowledge that we have received their application and to let them know what the prospects are for there to be a match and what kind of timing that they can expect to have a decision.

My brother is somebody who was with a dot-com that became a dot-bomb, and he has been trying for months to do something in public service and it has been a case study in what is wrong with our system, just frustration after frustration after frustration in lack of communication.

I think we also have to recognize it is not just getting into government, it is keeping good people, and that is making some of the changes to where we are investing in our people, we are having more empowerment involving our people, that we are creating learning organizations, that we are allowing people to be promoted, recognized, and rewarded based upon their skills, knowledge, and performance, not their passage of time and rate of inflation.

And so I think that it is going to be more important for us over time to be able to do those kinds of things that it will take to keep people in government and to recognize that we will never pay the same that the private sector pays. But then again, we should not have to, because we have something that we can offer here the private sector never can and that is the ability to truly make a difference for your country and for other people.

Senator VOINOVICH. Another thing that I am looking at is this issue of pay comparability. Pay is not necessarily an incentive but it is a disincentive if it is not comparable. You were commenting that 80 percent of the people are on automatic pilot. Part of the reason for that, I believe, is that we have never made enough money available in the personnel area so that the government can offer anything but a cost-of-living adjustment. So if agencies do not have the money to reflect performance evaluations, most managers just ignore that process because it does not make any difference. And that gets into the issue of broadbanding, which is something that you have talked about that managers must have some more flexibility, but that cannot have an impact unless they have the money in order to make broadbanding work. So pay comparability, it seems to me, is something that needs to be reinvented.

The other thing that is of concern to me currently is the issue of outsourcing. Again, when I talked with these students at Harvard, I would ask, "Where are you going to go?" They would answer, "Well, I can go to work for a nonprofit or I can go to work for somebody that has a contract with the Government." If you anticipate that a large share of the Federal jobs are going to be gone in an exciting area, and I am interested in your reaction, is that a disincentive for wanting to come to work for the Federal Government?

Mr. WALKER. We clearly need to reform how we go about making key decisions in the competitive sourcing area right now. As you know, the Congress passed an act about a year and a half ago asking me, as Comptroller General, to chair a panel dealing with competitive sourcing issues. We have had a number of meetings. We are scheduled to issue our report by May 1. We will hit that date. That panel is comprised of a number of leaders, both within the government, with employee organizations, including Bobby Harnage and Colleen Kelley, who are going to be on a panel after me, and a variety of other respected individuals in academia and the private sector.

I expect that we will be making recommendations for consideration by this Congress and I would hope that the Congress will give serious consideration to that, because clearly, there are certain aspects of the current system that are broken and that need attention.

Senator VOINOVICH. One of the frustrations that I have is that, if you look at the motivation of people who work for an agency, one of our problems today is that we have had this reduction in the workforce without consideration to proper reshaping. I think that is one of the reasons why we find ourselves in this position is that, during those years, they just lopped people off without considering what skills they needed to get the job done. Also, I think, it cast a bad reflection on working for the government in general because the 1990's downsizing was on autopilot.

If we want to attract and retain people today, to set up targets of 5 percent, 15 percent, 50 percent is counterproductive. The issue becomes, are the executives in the departments going to be spending their time trying to figure out what they can outsource to meet a target or are they going to be spending their time trying to figure out what kind of a workforce they need to get the job done. Again, I would like your comment on this.

Do we not have a situation here where we have one message that says, shape up your workforce and keep the people that you need and attract the people that you need to get the job done, and on the other hand it says, concentrate on what positions in your shop can you outsource?

Mr. WALKER. Competitive sourcing, I would say, is one element that you need to look at as a potential tool. It is a tool to enhance performance, to improve economy, and assure accountability, but how you go about it matters.

My personal opinion is, it is inappropriate to have quantitative or percentage targets in this area. One needs to be able to have a more informed judgment based upon past experience, based upon public and private sector trends, about targeting areas of opportunity where you think it may make sense to do it without having arbitrary number or percentage targets in this area. I think that sends a mixed signal and I expect that is one of the issues that the panel will end up deciding whether or not to make a specific recommendation on in our May 1 report.

Senator VOINOVICH. One last question and that is on training. This legislation talks about training. I would like you to comment about how important you think it is that we have allocated resources for training in the departments in terms of attracting and retaining people to the public service.

Mr. WALKER. I think it is critically important. A number of the people that we have are very good people, but they need help in a variety of areas, whether it be dealing with new technology, whether it be dealing with how to effectively manage people, whether it be dealing with difficult situations, whether it be technical training. We have to invest in our people.

World class organizations make training a top priority and they invest in their people, and it is not just the current people you have but these new people that we are trying to bring in. One of the primary factors that they will use in determining whether or not they

are going to stay or how long they are going to stay is are they learning? Are they growing? Is their employer investing in them?

And if the answer to any one of those three questions is no, then the likelihood that you are going to have turnover increases exponentially, and so it is, therefore, critically important, and one of the areas that I have set as a top priority for GAO this year is we are investing more in training. We are doing more to invest in our people. We are developing this fiscal year a modern and forward-looking training and development program for our staff that will be implemented over the future and we are allocating dollars to be able to make sure that it is real, not just form, but there is substance behind that form.

Senator VOINOVICH. And I suspect it is your intention to use that also as a recruitment tool when you are going out trying to get the best and brightest people to come, because people want to come to work for an organization where they are going to learn and grow and see a future. And if the word is that there is no money for training it is a disincentive to come to work there. You get to a point where the agency needs some new people, and rather than giving current employees training and upgrading their skills, they look around to try and find some way they can to farm their work out to somebody. Who wants to go to work for that kind of an operation?

Mr. WALKER. You have to invest in your people. They have to believe that they are part of a learning organization, and it is particularly important for us. We are fortunate. We have a lot of people who want to work for GAO and our applications to work at GAO have tripled in the last year. I think some of that is the economy, but some of it is because we are trying to lead by example and truly make our organization a world class professional services organization who just happens to be in the government.

Senator VOINOVICH. I would think that many other secretaries of departments ought to look at the good role model that you have put together at GAO. I think if we could get some of that throughout the Federal Government, we would see a whole lot better situation. Thank you.

Mr. WALKER. Thank you, Senator. We are not perfect, we never will be, but we are sure trying hard, that is for sure.

Senator AKAKA. Mr. Walker, we really appreciate you taking time from your schedule to be with us this morning and I thank you very much for your insights and your advice and what you have said this morning will be useful to this Subcommittee. Thank you very much.

Mr. WALKER. Thank you, Mr. Chairman. Thank you, Senator.

Senator AKAKA. I would like to ask our second panel to come forward and be seated. We have with us four individuals whose commitment to Federal workforce issues is well known.

I am pleased to welcome Colleen Kelley, National President of the National Treasury Employees Union; Bobby Harnage, National President of the American Federation of Government Employees; Jerry Shaw, on behalf of Carol Bonosaro, President of the Senior Executive Association; and John Priolo, a member of the General Executive Board of the Federal Managers Association, President of

FMA Zone 7 and a longtime employee at the Pearl Harbor Naval Shipyard in Hawaii.

Again, we appreciate your being with us today. Before we begin, I ask that you limit your oral statements to 5 minutes. However, please be assured that your full written statements will be made a part of the record.

Ms. Kelley, we will begin with your statement.

**TESTIMONY OF COLLEEN M. KELLEY,¹ NATIONAL PRESIDENT,
NATIONAL TREASURY EMPLOYEES UNION (NTEU)**

Ms. KELLEY. Thank you very much, Chairman Akaka and Senator Voinovich. I am very pleased to be here today on behalf of the 150,000 Federal employees represented by NTEU. I think we all share the same goal. We want to entice the brightest, the most talented, and the most committed employees to public service and to ensure that the Federal Government becomes and continues to be the employer of choice.

A decision to fully implement FEPCA and to provide compensation mirroring that received by the private sector would do more to address the recruitment and retention problems in the Federal Government than all of the Federal Government's other incentive programs combined. In spite of this, of course, the President's 2003 budget proposes a 4.1 percent pay raise for the military while at the same time suggesting that the Nation's civilian workforce deserves only a 2.6 percent raise. This is not a proposal that the administration would make or one that Congress will support if we are serious about the human capital crisis. While I accept that S. 1603 is offered as a downpayment on the human capital crisis, in NTEU's view, any human capital legislation worth passing must address the crisis in Federal pay.

The Federal Health Benefits Program, too, must be addressed. This program has become too expensive for current employees and unattractive to prospective employees. Legislation is pending before this Committee, S. 1982, that would increase the employer FEHBP premiums from the current 72 percent to the more common industry standard of 80 percent. This would represent a modest step, yet the legislative proposals pending before this body today do nothing to address this issue, either.

Likewise, the administration's blind targets for contracting out 15 percent of all commercial activities work of Federal employees by the end of 2003 continues to erode the morale of the Federal workforce and cannot possibly attract prospective employees. Arbitrary one-size-fits-all quotas will not work. Would you seriously consider employment with the Federal Government knowing that your job may be contracted out from under you to meet an arbitrary number? I do not think so.

And I do want to thank Senator Voinovich for speaking out at the March 6 hearing on this issue. These mindless quotas show a lack of wisdom of the impact they have for the government as a potential employer. Congress must let the administration know that these quotas are counterproductive and will not stand. Until that

¹ The prepared statement of Ms. Kelley appears in the Appendix on page 111.

happens, the Federal Government will continue to send negative messages to current and to prospective employees.

NTEU appreciates S. 1603 drawing attention to the need for properly training employees. However, it does not address the resource problems that prevent agencies from adequately training their employees. This legislation also suggests changes in hiring, and NTEU questions the advisability of moving away from the current rule of three. A new hiring system must be considered fair by employees, preserve merit principles, and lead to the best candidate being hired. Critics of the Department of Agriculture hiring system have raised questions about expanding that system governmentwide. In addition, a December 2001 MSPB report raises questions about the protection of Federal merit hiring in today's decentralized hiring system. With the lack of expertise in assessing the candidates found in so many agencies, we believe that there should be further discussions with this Subcommittee on these issues.

S. 1603 would also grant critical pay authority to Federal agencies on a limited basis. Serious questions about the use of critical pay authority and how it has been used to date in the Federal Government have been raised and, I believe, need to be addressed before proceeding any further on this issue.

NTEU does not support language in S. 1603 reducing poor performance employee notices of termination from 30 to 15 days. Rather than focusing on the notice period to employees, NTEU believes that it makes better sense to train managers and to help managers develop the necessary skills to manage, mentor, and motivate their employees.

I also want to comment on several provisions of S. 1612, the Managerial Flexibility Act of 2001. NTEU objects to changing the nature of demonstration projects as well as permitting them to be made permanent without Congressional approval. We also object to provisions that would grant certain management-level employees 8 hours of leave each pay period. Rank-and-file Federal employees must work 15 years before earning 8 hours of annual leave per pay period. If Congress believes that annual leave limits are a barrier to hiring, then the system should be reformed and it should be reformed for all Federal employees.

NTEU also opposes Title II of S. 1612, which would require agencies to pre-fund retirement and health benefit costs for their future retirees, subjecting these mandatory payments to the annual appropriations process. If Congress did not appropriate the money, agencies would be faced with several choices: To restrict retiree benefits, to curtail employee training, to reduce public services, or to conduct a reduction in force, a RIF. And these possibilities are not far-fetched. As you noted, Chairman Akaka, domestic discretionary spending suggested in the President's 2003 budget declines by 1 percent compared to the 2002 budget. These retirement costs are already accounted for through mandatory payments to the retirement fund. This change is unnecessary and NTEU will strenuously oppose it.

I thank you for the opportunity to appear today and look forward to any questions you might have.

Senator AKAKA. Thank you very much for your statement, Ms. Kelley.

Mr. Harnage, please proceed with your statement.

TESTIMONY OF BOBBY L. HARNAGE, SR.,¹ NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Mr. HARNAGE. Chairman Akaka and Ranking Member Voinovich, thank you for the opportunity to testify on the draft proposals addressing various Federal personnel issues. In your invitation, you requested that I address five broad questions regarding the draft proposals. I have addressed all five in my written statement and today I would like to focus on just two.

But first, I want to commend the Chairman as well as Senator Voinovich and Senator Thompson for removing several of the provisions of the Federal Human Capital Act of 2001 and the Managerial Flexibility Act which AFGE had opposed. We were particularly gratified to see that the draft proposals exclude extending to OPM the authority to make alternative personnel systems permanent without the approval of Congress and shifting Federal employees' earned retirement benefits from mandatory to discretionary accounts. In addition, we were pleased to see that the draft proposals rejected the concept of a one-on-one ratio for buyouts and full time equivalent eliminations.

Chairman Akaka, you asked me to respond to two extraordinarily important questions that are often excluded from the debate over how to address the human capital crisis, first, how recruitment and retention concerns could be balanced with the administration's privatization quotas, and second, how the gap between the compensation offered to private sector employees and that offered to Federal employees can be addressed. These questions hold the solution to the Federal Government's human capital crisis. The draft proposals, while clearly well intended, offered little of substance that will affect the rank-and-file Federal employees AFGE represents.

However, if the administration's privatization quotas go forward and they succeed in handing over 425,000 Federal jobs to the contract, civil service reforms, such as those of either the draft proposals, S. 1612 or S. 1603, will become truly irrelevant. There will be no civil service, just a corps of political appointees of acquisition officers churning through the revolving door between contracting agency and contractor.

Likewise, the large growing gap between the pay and benefits provided to employees of large private sector firms and unionized State and local government employees on the one hand and Federal employees on the other hand is not a mere detail. A decade after the bipartisan Federal pay law was signed by the elder President Bush, Federal salaries still lag the private sector by 22 percent.

Thirteen years after the CRS wrote the definitive report showing FEHBP to be inferior to the plans in the most successful private firms and largest States by a substantial margin, the benefit gap has also worsened. There is no excuse, no physical excuse, no excuse that data describing the dimensions of the gaps were not

¹ The prepared statement of Mr. Harnage appears in the Appendix on page 128.

available, no excuse that unions were intransigent and unwilling to negotiate even partial solutions.

The draft proposals include broad authority to provide large recruitment and retention bonuses to select Federal employees. We could not pretend that bonuses, especially bonuses that come at the expense of adequate staffing or adequate salaries and salary adjustments, will improve the government's ability to recruit and/or retain Federal employees. Bonus payments do not count as basic pay for purposes of retirement or annual salary adjustments. If, in fact, they are designed to recruit for temporary positions or to recruit those with an intention to remain only a short time with an agency, it must also be said that they are not a solution to the human capital crisis as we understand it.

The government's crisis is that it is on the verge of losing its workforce to retirement, privatization, and more lucrative offers of State and local governments and the private sector. When the workforce leaves, it takes its institutional knowledge, skill, experience, and the public sector's devotion to the common good. Bonuses will not solve such a problem.

Mr. Chairman, you also asked if the human capital crisis could be solved in the context of the administration's privatization quotas, as they call them, competitive sourcing targets. The short answer is that unless the administration rescinds its privatization quota, the government's recruitment and retention problems will only worsen. The Department of Defense has recently acknowledged that its plan is to automatically replace retiring Federal employees with contractor employees. As agencies are forced to privatize half of the so-called commercial jobs on their FAIR Act list, they will increasingly follow DOD examples.

The administration's privatization quotas should not be referred to as competitive sourcing initiatives. AFGE does not oppose competitive sourcing. In fact, our position is that Federal agencies should be permitted to contract out commercial work, but only if it can be shown that through public-private competition it will be less costly to taxpayers than continued in-house performance. Only through public-private competition can taxpayers learn whether their interest is to have the government's work performed in-house by Federal employees or contracted out to the private sector.

As I have mentioned, there is no way to avoid the fact that Federal salaries are inadequate and that the health insurance program is inferior. Solving the human capital crisis requires paying higher Federal salaries and improving both the affordability and quality of the health plan.

We have our own recommendations on civil service reform. I believe it is necessary for the true and lasting solution to the human capital crisis. Components of this package are in S. 1152, the Truthful Responsibility, Accountability, and Contracting Act, TRACT, to make sure that contracting out only occurs when public-private competition shows it is in the public interest to do so, and S. 1982, Senator Barbara Mikulski's bill to improve the funding for the Federal health benefit program.

We commend the Subcommittee for taking the issue of the human capital crisis so seriously and we look forward to continuing

to work with you on this issue. I would be happy to answer any questions that you might have.

Senator AKAKA. Thank you very much. We appreciate your testimony, Mr. Harnage. Mr. Shaw, you may go ahead with your statement.

TESTIMONY OF G. JERRY SHAW,¹ GENERAL COUNSEL, SENIOR EXECUTIVES ASSOCIATION

Mr. SHAW. Mr. Chairman, I apologize that President Carol Bonosaro was unable to attend today. She became ill this morning.

I am the General Counsel for the Association. I was one of the founders of the Senior Executives Association while I was a career executive in the Chief Counsel's Office of IRS and subsequently was the first President of the Association and have been its General Counsel ever since its inception some 23 years ago.

We appreciate this opportunity to testify and we want to commend you and Senator Voinovich and Senator Thompson for their concern and efforts on behalf of the Federal workforce. The Subcommittee has requested that we address several questions. It will come as no surprise that SEA will focus its remarks on the questions of compensation and in particular with regard to the executive corps.

First, an aside. The chief operating officer which is proposed by the OMB Director has been something that the SEA has supported for a number of years. We have put together a number of proposals along that line and we think it would be a great idea and it is something, I think, that could truly be revolutionary in changing agencies and bringing about some continuity in the workforce.

The compensation gap for career executives with private industry was well illustrated by a 1996 study by the Hay Group, which showed that average SES total compensation, including bonuses—and this is total cash compensation—for jobs of exactly the same difficulty in the private sector would have required that SES pay be increased by a range of 46 to 137 percent to obtain comparability with the private sector. Now, obviously, that is not going to happen, and SEA does not propose that.

However, money, while not a motivator, is a substantial demotivator and what it goes to is the person's perception of their own worth. This kind of a gap with the lack of raises in 5 out of the last 8 years for the career SES has truly damaged their morale. Many of them have stayed on in Federal service just because of the September 11 crisis and thereafter.

In 2000, GAO projected that by fiscal year 2005, 70 percent of all career executives would be eligible to retire. It behooves us, I believe, to ensure that we retain as many of these highly capable, experienced, and accomplished executives as possible while we develop and have in place the necessary talent to succeed those who do retire. Yet right now, we are driving these executives out and discouraging middle managers on the executive track because of failure to address the pay compensation problem, which has reached critical proportions within the corps.

¹The prepared statement of Ms. Bonosaro with attachments submitted by Mr. Shaw appears in the Appendix on page 144.

SEA welcomes the provision of S. 1603 which would raise the total annual compensation cap to the Vice Presidential level but it would do nothing to affect compensation other than to allow employees to receive their earned bonuses and awards in the year in which they were earned.

While the Association does not object to Section 205, which would shift oversight for critical pay positions from OMB to OPM, we are in strong opposition to any substantial expansion of the use of this critical pay authority throughout the Federal Government. Reliance on this authority would continue the piecemeal attack on the pay compression problem which is most severe in the SES ranks.

After having their pay frozen in 5 of the last 8 years, the pay cap has filtered down through the six pay levels or ranks of the SES until approximately 70 percent of all career executives receive the same pay. ES-4, 5, and 6, the top three ranks, are now all capped at Executive Level 3 in all 32 localities. ES-3 is now capped in 15 localities. In Houston and San Francisco, even ES-2 is capped. This would be similar to having a pay cap and earnings by GS-15s, 14s, 13s, and 12s all being paid the same pay as GS-11s.

We do not believe the administration or Congress would or could allow that to happen. They should not allow that to continue in the SES. The situation is unfair and would be unthinkable in any private sector corporation, yet is tolerated by both the administration and Congress. It must be rectified with legislation. H.R. 1824 and S. 1129 would raise the statutory maximum on pay and we strongly support those efforts by Congressman Davis and Senator Warner.

The current system, in fact, encourages early or immediate retirement by eligible career executives. From 1994 to 2001, the average annual COLA adjustment on retirement annuities was 2.5 percent per year, higher than the average SES pay increase of 1 percent over the same period. This results in SESers losing 1.5 percent of their retirement annuity for each year they remain in the government. Is it any wonder the best of them feel compelled to retire as soon as they are eligible?

Substantial use of critical pay authority has been tested in only one agency. The experience, while being studied, is not uniform and there must be much more study before critical pay authority should be extended anywhere else in government.

In closing, we believe it is critical that the Congress and the administration consider and respond to the full range of human capital issues and reject continuation of piecemeal approaches. Agency and occupation-based fixes approved by Congress are fragmenting the civil service, creating a crazy quilt of personnel and pay systems across the government without addressing fundamental issues affecting the workforce. At the executive level in particular, pay compression has clearly contributed to the pressure by agencies for separate systems. In addition, however, we have heard over and over from agency officials of the need for additional career executive positions so that they can be independent of the OPM allocation process.

During the Clinton Administration, the career Senior Executives Service was downsized by almost 20 percent and that downsizing

is having a substantial impact today. We believe that the top ranks were thinned unnecessarily. The ratio of SES positions to the rest of the Federal workforce, after all, is very slight, and the number of positions in the executive corps should be increased to enable agencies to meet their mission.

Finally, the use of existing flexibilities and authorities is limited by a lack of funding and a lack of an effective mechanism for agencies to share successful approaches. Therefore, the pressure for designer systems will continue unabated and new authorities will continue to proliferate unless and until the underlying problems are addressed through a coherent governmentwide solution which provides overarching principles, flexibility within limits, and some bottom line of uniformity.

Thank you, Mr. Chairman. Thank you, Mr. Voinovich.

Senator AKAKA. Thank you very much, Mr. Shaw, for your statement. Mr. Priolo.

**TESTIMONY OF JOHN PRIOLO,¹ GENERAL EXECUTIVE BOARD
MEMBER, FEDERAL MANAGERS ASSOCIATION (FMA)**

Mr. PRIOLO. Chairman Akaka, Senator Voinovich, on behalf of the nearly 200,000 managers and supervisors in the Federal Government whose interests are represented by the Federal Managers Association, I would like to thank you for inviting FMA to present our views. My statements are my own as a member of FMA and do not represent the official views of the Department of Defense or of the Navy.

Mr. Chairman, thank you for the kind introduction. I would be remiss if I did not personally thank you for your support over the years of my chapter, Chapter 19 at Pearl Harbor Naval Shipyard. Your efforts have been instrumental, particularly in the area of workforce revitalization at the shipyard whereby we have been able to hire over 520 new apprentices and 100 engineers over the past 4 years.

Established in 1913, FMA is the largest and oldest association of managers and supervisors. We are responsible for daily management and supervision of government programs and personnel and possess a wide breadth of experience and expertise that we hope will be helpful in seeking to address the human capital crisis that we are currently faced with.

Before I present FMA's perspective, I would like to take this opportunity to thank you, along with Senators Cochran, Durbin, Voinovich, Thompson, and Collins for your leadership on S. 1799 and S. 1800, providing additional educational benefits for employees at those Federal agencies responsible for homeland security. It is not a focus of today's hearings, but they are certainly critical elements in the human capital discussion.

As well documented and certainly mentioned quite often today, we have been downsized by more than 400,000 positions from 1993 to 2000 and we are continually being asked to do more with less, to compete with the private sector, to streamline procurement, and at the same time deliver higher quality service to the American public. Civil servants have proven time and time again that we are

¹ The prepared statement of Mr. Priolo appears in the Appendix on page 178.

more than capable of fulfilling our duty, but we need civil service reform to increase the efficiency of the Federal Government.

We are facing a human capital crisis. We need added flexibility to use existing resources to recruit new talent and prevent the "brain drain" that will occur with the retirement of so many career civil servants.

As the number of civilian employees continues to shrink, the task of doing what is best for the American people becomes more and more difficult. There are fewer graduating college seniors that view the public sector as a desirable employment option, though that seems to be changing, hopefully. The hiring procedures takes so long that it becomes a deterrent to bring on board personnel, and it becomes an impractical option for mid-career professionals to transfer into the Federal Government. And finally, our salaries still lag far behind those of the private sector.

Hiring policies continue to be patterned after a World War II era process. We post a vacancy, interview, offer a position, and it can take a year to accomplish all of that. A lot of the best people in that chain go somewhere else. We have got to shorten that, and I am certainly pleased to see OPM attempting to make inroads in those areas.

We need alternate ways of evaluating job applicants. We need to be able to directly hire candidates when we have identified shortages or critical need. We need to have the authority to fill positions within respective agencies in an expedited fashion. We believe full-time equivalent ceilings must be made more flexible rather than use hard and fast numbers. Let us manage to the dollars instead of to the numbers.

S. 1639 offers some improvements in the area of hiring personnel and retaining personnel, because truly, "you get what you pay for." Retention bonuses do not always have to take the form of financial incentives. When we talk to personnel exiting the Federal service, they complain about a lack of recognition, of a long-term sense of purpose, and career progression. That is not dollars speaking, though dollars are clearly important. That is frustration at a lack of development of the folks we already have on board.

We are supportive of S. 1603 to develop a career training officer. We are supportive of pilot individual learning accounts as a way of, again, developing our personnel and our future leaders. All agencies should have structured developmental programs, be they SES or, in our case, generally second- and third-line managers and supervisors.

Obviously, I will never get through this report, but I would like to wrap it up without going too far over, since you have my written remarks. We would like to serve as a sounding board for Congress and the administration to ensure that decisions are made rationally and provide the best value for the American taxpayer. We recognize, and value the importance of a top notch civil service in the future.

Again, we would like to thank you, Mr. Chairman, for providing an opportunity to present our views. We look forward to working with the administration as well as with the Congress to deal with the government's workforce challenges in our mutual pursuit of excellence in public service.

Again, I would be happy to answer any questions you may have. Senator AKAKA. Thank you very much, Mr. Priolo, for your insightful observations.

The proposals we are reviewing today are intended to allow agencies to better recruit and retain the people needed to carry out their agencies' missions. However, as Mr. Priolo said in his testimony, FTE ceilings must be made more flexible in order to allow Federal managers to fill positions of critical need in an expedited manner.

My question is, to all of you, do personnel ceilings act as barriers to recruitment and retention? How do these ceilings influence agency recruiting? What recommendations do you have for an employee and managerial perspective? Let me start with my left. Ms. Kelley.

Ms. KELLEY. Thank you, Mr. Chairman. In my experience, personnel ceilings are not the impediment to agency hiring. The impediment are resources. It is the bottom line; agency funding dollars. In many agencies, as we speak right now, hiring that they had planned to do based on last year's budget is not being done. It is now being delayed because part of the January pay raise for Federal employees was not fully funded in their agency budget and they are having to make up that money somewhere else and it is coming in the way of delayed hiring that they desperately need.

But in my experience, it is not about the FTE ceilings, it is about the overall agency budget and even if they were to hire with the funds that they had, what it leaves is nothing for flexibilities. When Comptroller General Walker talked about using resources, making a choice of whether to use them for FTEs or for flexibilities, in my experience, again, that is a difficult, if not an impossible, choice for agencies to make.

For example, in both the IRS and the U.S. Customs Service, they have had staffing shortages for many years. In Customs, this has been exacerbated after September 11. We did not have enough inspectors on the borders before September 11. Now they are working 12- and 16-hour days 5 and 6 days in a row with no additional staffing.

So the idea of taking resources that are not even there for adequate staffing and then converting them to flexibilities is one that I have a hard time putting together in most of the agencies that I am familiar with.

Senator AKAKA. Mr. Harnage.

Mr. HARNAGE. Yes. The personnel ceilings or FTE ceilings, we have been told now for 4 or 5 years that they do not manage by FTEs, but you and I both know that they do and that they have a ceiling, and very often, that determines the funding. It is sort of an argument of the chicken or the egg, which one comes first, but much of the funding is reduced based on the expectations of being limited in the manpower ceilings and the FTEs. So it is sort of an argument either way you want to take it.

But, sure, it is a barrier in hiring and I think a lot of that has to do with the level of approval. When OMB comes out with a manpower ceiling, whether it be suggested or actually in writing, then that goes to the agency and then the agency passes that on down the different lines of management. And so when a manager has a vacant position, it has to go all the way back up through that line

before they can get approval to fill it and it appears to be a very long delay in hiring when really it is the FTE ceiling that is causing that delay.

Sometime when we have more time, I will give you my Air Force experience in weight control, which very much resembles the FTE ceilings. But it is a way of OMB measuring the funding. Therefore, they are bean counters, and that is what they are doing with the FTEs. That is the way they are controlling the funding.

Our position is, simply, let the managers be managers. They have a mission. They should be able to come forward with a plan that reaches the goal of that mission and whatever number of employees it takes to be efficient and effective, that is how many you approve without a magical number being picked out of the air and that seems to be what this administration as well as the past administration has tried to do.

Senator AKAKA. Thank you. Mr. Shaw.

Mr. SHAW. I agree with both Mr. Harnage and Ms. Kelley. An experience that I saw—in fact, I was thinking about David Walker's brother-in-law where he was trying to come into government. It depends on the time of year how fast that process is going to work. For example, let us assume that Congress delayed the amount of salaries or did not fully fund the salaries. What they will do is put off the hiring process. They will not hire until the back end. Then they really try to hire everybody. Then you have got to get them trained, and then the next year, depending on how much Congress gives them, determines whether the agency can keep them or not.

It is a very difficult process, but in one situation, an individual was offered a job in February, and the decision was not made until September because there was a requirement that all the people in this agency be trained on a particular program and they used all their money for training so they could not afford to fund the hiring until the last month of the fiscal year. So that FTE, to which \$30,000 was allocated, was used in the early part of the year to pay for training and other things and, therefore, they could not fill the position until the end of the fiscal year because they were counting on the new funding to pay for it.

So it is a chicken-egg. Everybody wants to know whether an agency has grown, has got more employees or less employees, so you have to count them somehow on the one hand. On the other hand, when you give people specific numbers and there are so many dollars that goes with each number, you can play with the dollars to try to meet your needs and, therefore, the hiring process can really get slowed down in some situations.

Senator AKAKA. Mr. Priolo.

Mr. PRIOLO. I must agree with everyone else on this panel. I work at a Navy shipyard. We fix ships. Our motto is we keep them fit to fight. We send them out to harm's way. Every year, we do more work than what we plan on. Things happen when you work ships as hard as we work them nowadays. Obviously, it is a Department of Defense issue. It is a serious concern and we certainly cannot solve that here.

But FTEs hard and fast are an impediment because then we have to decide, do we fix ships or do we hire the personnel we need

so that we will be able to fix ships 5 years from now when those people get qualified and the existing folks retire? It is all rolled up together. It is all one big circular problem that we have got to break so that we can do our jobs and to get our jobs accomplished.

Ms. Kelley, you mentioned your concerns over the quotas for contracting out that are in the President's management agenda. How do the objectives for contracting out prevent the legislative proposals we are considering today from achieving high recruitment and retention?

Ms. KELLEY. I think the quotas send a very negative message to those who are even considering Federal service. They do not provide any rhyme or reason or any kind of an explanation or expectation that you would have a position in 3, 4, or 5 years as these quotas move forward. There is no explanation or criteria within agencies other than if they are commercial activities, if they are designated as commercial activities on the FAIR lists.

Other than that, there is no criteria in looking at the agency's mission, at the overall budget, at how that fits into the operations of the agency as a whole, how long they have done those jobs, if there is a better way to do them, and to provide them with the resources to become more efficient. So I think it flies right in the face of the language in the legislation that is being discussed today. I think the quotas just derails it every step of the way because of the message that they send.

Senator AKAKA. Thank you, Ms. Kelley.

Mr. Priolo, I want to thank you for joining us today all the way from Hawaii. Your testimony raised a number of questions, not all of which I will have time to ask. You heard Ms. Kelley and Mr. Harnage express their opposition to changing the termination notification time from 30 days to 15 days. Do you believe 15 days is adequate and would you expand on your statement that a more comprehensive governmentwide employee performance appraisal system is needed, including the idea of tutoring an employee who receives an unacceptable performance rating?

Mr. PRIOLO. As for the 15 or 30 days, I do not have a lot of expertise in that area but I certainly think the more time you have, the better off you are.

We have limited personnel. We have a lot of controls and we have got to do our best to develop the folks we have. That is my responsibility as a manager—to mentor the young folks. We have started an apprenticeship program, thanks to your support, that provides us hope for the future, because, frankly, without the young folks coming in, without the apprenticeship program, we would lose the expertise of the people that are of retirement age and not be able to feed that back into the up-and-coming workforce.

I actually left a job as a nuclear engineering manager to move over into curriculum development because I am a firm believer that if we do not develop our folks, we will die by attrition. So you give us the ability to bring people in, which you have, and we will go develop them so we will have the people in place to do the jobs in the future. Thank you.

Senator AKAKA. Thank you, Mr. Priolo.

You also said that OPM has delegated substantial personnel authority to agencies over the past 5 years, but in many instances,

line managers do not have this authority. Why do line managers not have this authority and what can be done to change the current situation?

Mr. PRIOLO. What I tend to see, again, in my activity, because that is what I can refer to, is there seems to be a disconnect from the policies and the processes and the good ideas that come out of OPM and the folks at my level that have to execute. Somewhere in between, the train jumps the track and it just does not get down to us. Maybe it is just a communication problem. Maybe it is folks not wanting to change. Maybe it is fear of trying to work outside-the-box and doing something different. I certainly do not have the answer, but I do definitely have the frustrations. We sometimes have to make progress in spite of the system, not in accordance with the system.

Senator AKAKA. Mr. Shaw.

Mr. SHAW. I think one of the things that is absolutely fascinating to me is the inability to use the performance appraisal system to remove non-performing Federal employees. In 1978 when they changed the law, our first perception as a lawyer, and I am in private practice and we represent hundreds of Federal employees in performance cases, was that there was going to be a wholesale slaughter of Federal employees thrown out because the appeals and the rights of the employees are so narrow in performance cases, (not in conduct cases but in performance cases).

The 30 to 15 days is fine. It does not really make any difference because by the time you get to proposing an adverse action in a performance case, the employee should have been through a performance improvement period and you should have your ducks in a row.

The problem with the system is not the difficulty of the system, it is the HR people in the agency and the lawyers in the agency saying, "Oh, you cannot do that." There is a requirement in the statute for a performance improvement plan. OPM extended the time for the performance improvement plan. This agency not only required you to go through that performance improvement plan, but after you got done with that one, you had to start another one. They literally had two performance improvement plan periods that you went into, and then by the time they got finished, everybody had given up, it had lasted so long and the under-performer remains there.

Let me just sum this up into two points. First, managers have to be trained in how to use the system. We teach a course, my law firm does, for the Senior Executives Association on how to use the performance appraisal system to deal with poorly performing employees and for every manager that attends that course, it is mind boggling. They cannot imagine that they have got this authority, and the reason they cannot use it is because HR people and lawyers have taken it away from them. And it is not the ones at OPM or OMB, it is the ones in their agencies, because power is the ability to say, "No, you cannot do that. We know more than you do."

And the second thing is that the agencies do it to themselves. Most of the problems in dealing with under-performers is not the OPM regulations, it is not OMB, it is not the law, it is not MSPB, it is the agencies. They have grown a culture on their own that you

have to do five times more than what the law requires you to do to handle a poor performer, and it is tragic.

The system that is there now, in fact, if anything, gives too much authority to a Federal manager and we very much feared that there would be abuses of that. Instead, what has happened is everybody says, oh, we do not want to use that system. It is too complicated. We will use this conduct system. Well, the conduct system can be tough. I mean, you have really got a high burden of proof. The performance system, you do not have hardly any burden of proof, substantial evidence, which is negligible.

Go ahead, sir, and make it 15 days. It does not make any difference. Unless these people are taught how to use the system, it is never going to work.

Senator AKAKA. Let me ask Mr. Harnage and Ms. Kelley to add to this discussion, if you wish.

Mr. HARNAGE. Well, I think Mr. Shaw really hit the nail on the head. It has more to do with the agency culture than anything else and it is the full employment act for the HR people and the attorneys that work for the agencies. They have simply developed a culture that makes their job more significant, more important, and it prevents the managers from being able to manage.

I think our biggest problem in performance and in disciplinary situations is simply that the managers are not adequately trained. They are not adequately trained on how to handle the situation and then they are not allowed to handle the situation as they should and I think we have got to get the HR people out of that business and allow the managers again to be managers.

One other factor that has played a role into that possibly in the last few years is a manager is faced with a situation where, if it is a marginal employee, do I get rid of this individual and totally do without anybody because I have got an FTE ceiling and I am going to lose that slot, or do I try to make it do and hopefully this employee will do better? When you do not have any control over whether or not you will continue to have that position, managers will tend to try to hold on as long as they can. At least 20, 30, or 40 percent performance is better than zero. So I think that plays a very important role in our problem.

Senator AKAKA. Ms. Kelley.

Ms. KELLEY. The issues identified as HR and legal issues, I agree exist in all agencies, but I have concerns about the discussion concerning under-performers and the performance improvement period. I would hope that it is very consistently believed that managers have their goal and that their responsibility is to try to turn around and help an employee who is having performance problems, not just to jump through the hoops of some stated time frame to move them out the door.

There surely are employees whose employment will be terminated at the end because they cannot or will not turn around their performance, cannot improve it. But I believe that managers, most managers I know, have an interest in trying to figure out how to turn a marginal employee into a better-than-average and even an outstanding employee with the right mentoring, with the right information, with the right support, with the right training, and that takes training for the managers. Managers need to be trained on

how to do that, how to know when and what to provide in order to help an employee to become better than marginal and also, then, on how to move forward if, in fact, the process requires that the employee be terminated.

But I would hope that as much energy goes into this process as it should, I believe, in the private sector, not just in the government, into supporting and trying to turn around performance before an individual is terminated.

Senator AKAKA. I have more questions, but let me yield to Senator Voinovich for his questions.

Senator VOINOVICH. I could not help but smile, as I listened to you. Mr. Priolo, I am so glad you are here, and that is not to take anything away from our union leaders here and Mr. Shaw. But I believe in quality management and empowering the people closest to the problem, and I think your testimony this morning talks about the practical problems that you encounter in your agency.

Mr. Shaw, I smiled as you were talking about the performance evaluation process. I will never forget when I became Mayor of the City of Cleveland, and a lot of my directors were complaining that they could not get rid of poor performers. So I talked with the head of the Civil Service Commission and she said, "The problem, Mayor, is they do not know what they are doing and if they would use the system, they could get rid of poor performers." So I went back to the directors and said, "You are going to go to school to find out just how the system works," and they did that and things improved substantially. We were not trying to run people out. If somebody has a problem, you try to help them deal with it.

But so much of the problem we have is that people are not getting the training that they need, and I was impressed with Kay James' testimony about the fact that they are training 500 people. They have a massive training program underway in the Federal Government so people understand just what their responsibilities are and what they can or cannot do.

I look at the problems that are there and it just seems that for so long, they have been neglected. You are talking about replacing people. One of the things that this legislation allows is in the shaping of an agency, we are going to allow the managers to give early separation or early retirement without eliminating the position, so that they can fill that position. It is something that it took me 3 years to do in the Defense Department. Today, the Defense Department has this workforce reshaping authority for 9,000 slots, and they are starting to use it.

I suspect you think that is a good provision?

Mr. PRIOLO. Absolutely.

Senator VOINOVICH. And then the issue is, how do you fund that? It took me 2 years to get it through to the appropriators to fund it, and we were only talking about \$82 million over 10 years. But it is so much easier to buy a F-22 or some——

Mr. PRIOLO. Piece of hardware.

Senator VOINOVICH [continuing]. Piece of hardware than it is to concentrate on the people that you have.

I was just commenting to my staff, we have not had too many people that have been talking about some of the flexibilities that we try to provide in this legislation. You are all doing a good job

of representing your concerns, but underlying all of this is the need to have more competitive pay than we have today. And we need to allocate more resources if we expect to be an operation that can retain people.

Mr. Shaw, 70 percent of the Federal Government's senior executives receive the same salary due to pay compression we could have, by 2005, 70 percent of them retiring. They receive a greater cost of living adjustment on their annuities than the pay increase they receive by staying in the Federal Government.

Mr. SHAW. They lose a percent and a half a year off their retirement annuity.

Senator VOINOVICH. So those kinds of things just do not make sense and we need to address those issues. At the same time, understanding the pay, understanding the issue of health care—and I can understand the issue of health care, although I will say to you that the private sector today is moving toward increased employee participation than they did before because of the high cost. In fact, I see that across the country, although I will say this, that in terms of the Federal contribution to health care benefits, it is a lot lower than in the private sector and many other agencies. I know in the State of Ohio, the employee contributes 10 percent, which is far different than, what is it for Federal employees?

Ms. KELLEY. Twenty-eight percent.

Senator VOINOVICH. Twenty-eight percent. So those are things that we need to look at.

But that being said, I would really like your opinion on the flexibilities that we have tried to provide in this legislation. Are you supportive of what we are trying to do with this legislation?

Ms. KELLEY. Other than the specifics that I noted in my testimony, where I would hope there would be more discussion, such as on the critical pay area, I guess where I always come down on this issue of flexibility, Senator, is that flexibilities without the resources will not make a difference. I think that unless the agencies are given the resources and are supported in their use of them, it is not going to make a difference, and that is my hesitancy in supporting the legislation. I wish it would go further in the area of Federal pay, addressing pay as one of the largest issues that is affecting recruiting and retention, and then saying, not only do agencies have these flexibilities, but resources will be provided to enable them to have the staffing they need and to be able to use the flexibilities.

Senator VOINOVICH. I can understand that. I am interested in the white paper that OPM Director James is going to be coming out with on compensation.

Mr. Harnage.

Mr. HARNAGE. Well, as I said at the beginning of my testimony, I really appreciate the changes that you have made to the draft proposal that eliminated a lot of our objections. Of course, in looking at the draft proposal, there is not a lot in there that we see that is very favorable for the employees that we represent, but there is not any harm there either at current, with the exception of the 15 days. We do not think 15 days shorter in a 6- to 9-month process makes that much difference, and the problem is not the

amount of time the employee has, it is the amount of time on the other side that is required because of the bureaucracy.

Senator VOINOVICH. Do you agree with Mr. Shaw that a lot of the people who are supposed to be doing this process do not really know what they are doing?

Mr. HARNAGE. I will agree with that, yes, I do, and I prefer your bill as opposed to the Managerial Flexibilities Act, because I think following that act there ought to be a parentheses that says, "as long as you do it the way I say to do it." There is not a lot of flexibility there when you look at the controls and the approval up the line that it takes and I think that is where you are trying to get to, is to get it more closely down to the worksite where the manager that is doing the job can be better managers, and we saw that act as really, even though it talks about flexibility, it was still a lot of checks and balances and controls at the OPM and OMB level that I do not think that was going to amount to a lot of flexibility.

Training, I think, is the main thing that will make it work, and one of our concerns is when we talk about management flexibilities, and we certainly believe that the managers ought to be allowed to manage and they ought to be trained, not any disrespect to the current managers. It is not their fault. The government has diverted training funds in other directions and people have not been able to keep up with current practices.

But one of our concerns is when you say flexibilities, we are not sure what role does the employee or the employee representative play in these flexibilities—

Senator VOINOVICH. Mr. Chairman, when I got started with this, the concept was to change the culture of the Federal workforce. I came to the Senate with that idea. I tried to do that when I was mayor and then as governor, and changing the culture has a lot to do with empowering the people who work in the agencies. And that is what you are raising here—the issue of flexibility.

The hardest problem we had was to get middle managers, who had come up in a command and control environment, to give up some of their power and empower the people working for them to come up with solutions on how they could do a better job. It was very difficult.

But I ultimately think, regardless of what we do in legislation, that if we do not have more of that quality management, that empowerment, the participation of the people that are actually doing the work, we are not going to see the improvement that all of us would like to see in the Federal workforce. And I think it also contributes to an environment where people get excited about the job that they are doing, and if they are excited about their work, then they stay there. The word gets out around the country that this is a great place to come to work.

I have had more people tell me they have come to Federal agencies, and after a couple of years, they leave because they do not receive any training, it is not exciting, and what they expected did not occur. We will be hearing from some panelists tomorrow in terms of that outreach that we are going to need to change the perception of Federal employment. We can do all we want to publicize the opportunities in the Federal Government, but there are some fundamental changes that we have to make if we are really going

to have the kind of environment that is going to attract people and keep them.

On the issue of eliminating the link between senior executive compensation to Members of Congress get paid, you would support eliminating that, would you not, Mr. Shaw?

Mr. SHAW. Yes, sir, we would. If I can go down your list, on the phased retirement Section 204, SEA supports that. We think that is a great idea. We think it can help managers transition out and new managers transition in and still have the benefit of the one who is retiring to work part-time for a period of time and help them become accustomed to the job.

On requiring OPM to provide approval or disapproval on the qualification review boards for SESers, we would prefer 25 work days. Around holiday time, they get people from all the different Federal agencies, a number of them to serve on a qualifications review board that an SESer's qualifications have to go before and be approved, so that could be a little problem. But the 30 days is not a problem, but 25 work days would be a little bit better.

On the recertification elimination, recertification of the SES system, we support that. We think that it has not added any value to the current performance appraisal.

Your proposal on training, we think is excellent. It opens up a lot of opportunities for a lot of people.

And on the annual leave provision, if the agencies say they have trouble bringing people in from outside because they do not have any leave when they come in, we do not have any objection to it. We support it for managers, and if it works for managers, it may work for some employees in specific situations. But it is good authority and flexibility for agencies to have.

Just one more thing. I want to reassure Ms. Kelley and you that when we handle performance, under-performer cases, the only way that we can be successful in keeping a non-performer from being removed from their position is work with them during the performance improvement period to bring them up to the standards required by the agency. We have been very successful in doing that. We supplement what training they have. We actually sit down with them and go over the papers they are preparing and that kind of stuff, so long as it is not classified, obviously, and we assist them and are firm and that is how we win cases in our law firm on non-performers is we help make them performers, and that, in most cases, is the answer.

Sometimes people just cannot do the job, and that happens and they have to be removed. But we work first to make sure we help them meet the requirements of the job and then the whole thing goes away.

Senator VOINOVICH. That is interesting, because many people wring their hands and say, well, you cannot get rid of a poor performer. But the fact of the matter is that you can if you know what you are doing and that person is truly a poor performer.

Mr. SHAW. Right.

Senator VOINOVICH. There are a lot of stereotypes out there today.

So, again, the provision of eliminating the link between senior executive pay with the pay of Congress would—

Mr. SHAW. What we are proposing, and what both Senator Warner and Congressman Davis's bill would do—as you know, there are five levels of the executive schedule and Members of Congress are tied to level two. What we are proposing is that SES base pay be raised from the current cap, which is level four, to level three and that they be able to earn their locality pay on top of that. So, in effect, depending upon the locality that the employee is in, some of them could wind up making more than Members of Congress, but there is still a level between them on their base pay and their other, but that is going to depend on the locality they are in. In Los Angeles and Houston, what locality pays the highest, they could be making a little more than a Member of Congress.

But we are not committed to ritual suicide of trying to break the tie between Members of Congress and career executives because——

Senator VOINOVICH. But overall, from a good personnel point of view, de-linking salaries to artificial barriers is a——

Mr. SHAW. We support that.

Senator VOINOVICH. It is a good public policy.

Mr. SHAW. It is a good public policy, and it is one that, in fact, has happened in many agencies already. At the Senior Biomedical Research Service, a number of programs over at HHS, the SESers there make more. The law enforcement community, the FAA, SEC, a whole bunch of agencies have broken loose from the pay cap through necessity. They cannot keep the people that they need and they cannot get the people that they have to have, and that is going to be governmentwide soon.

Senator VOINOVICH. Are you familiar at all with the IRS and the program that they put in place several years ago to bring in outside people who had special expertise that they needed in order to get the job done?

Mr. SHAW. Yes, sir.

Senator VOINOVICH. This legislation allows that kind of flexibility in other agencies. There has been a lot of controversy about whether that works or does not work, and it is not intended to respond to the issue of pay compression that senior executives experience, but the fact is that there are certain agencies that do need to bring in people on a short-term basis for mission-critical tasks. I would be interested in your appraisal of that.

Mr. SHAW. SEA has—it is probably one of the most debated issues within our board of directors, which are SESers from all different agencies. But we think a limited critical pay program could be useful in some agencies. We are absolutely opposed to it if it would result in bringing in people from the private sector and used to relieve pay compression for a selected few and for the pay compression problem that we have not addressed first. So if our pay compression problem was dealt with, even though it would not be a complete solution, then we would be supportive with certain safeguards.

One of the things, though, is that we should be able to allow career executives to compete for those positions because they may be available in other agencies.

Senator VOINOVICH. Are they not allowed right now?

Mr. SHAW. No.

Senator VOINOVICH. They are not?

Mr. SHAW. No. They have to come from outside government now. They are term appointments for 4-year terms. Career executives should be allowed to go into those positions. They would have a 4-year term and they would have to come out of the positions. We would want career SES employees to be able to go back into the SES if that is where they had come from.

Senator VOINOVICH. By the way, we got into that when I was governor. We had people who wanted to move up, but when they moved from a covered position into one that was not covered, they could not move back later. So some of them were not willing to move because they said, "Well, at the end of that time, I am finished."

Mr. SHAW. In the current SES system, if they do that, if they go into a political appointment, they have fallback rights to the SES. It is not unusual at all for people who have been given Presidential appointments or non-career appointments in one administration at the end of that administration to fall back into the SES as a career employee, if that is where they came from. But it has to be where they came from.

The other thing, though, is we think that use of critical pay should be justified on the basis that the skill that they are seeking or the experience that they are seeking does not exist in the agency or in the government. It should be confined to specific skill sets, for example, in the IT community, that we do not have in the government because of the rapid progression of change, and that may exist on the outside.

But the use of it to bring someone in to handle public relations or something else like that is problematic, first, and second, when we look at the problems in the government, most of the critical issues, even in the IT community, it is not like these career executives have only been talking to themselves. They have hired and paid for some of the best consultants in the whole world who sold them a bill of goods on what they needed to do to get this IT system to work. Maybe they would have been better, having more knowledge, knowing that they are being sold a bill of goods, but they certainly are not lacking in the ability to have people come in and give them advice on particular challenges that they face.

Senator VOINOVICH. We have an example of that in the IRS. You think, overall, they have used it for the intended purpose, or do you think that they abused it? How would you rate that on a scale of one to ten?

Mr. SHAW. The only basis I have got for that is the——

Senator VOINOVICH. One being the best.

Mr. SHAW [continuing]. One study that was done by Tax Notes, I think they call it, and discussions with two or three executives at IRS that are very knowledgeable about it. There have been a number of pluses. There have been a number of failures, some people who left very quickly.

Senator VOINOVICH. Well, the point is that when they bring them in, they get a 4-year contract but it is not a guaranteed contract. And if they do not meet the muster or have some bad interpersonal skills, they have asked them to leave, I think.

Mr. SHAW. Right.

Senator VOINOVICH. So the fact that they leave maybe is not a bad thing, but maybe it shows that the system works. What would worry me is that you have people sitting there for 4 years that really are not getting the job done and are really causing problems with the team.

Mr. SHAW. That is why if career executives went into it from whatever agency they must be able to be removed from that critical pay job at any time, the same as anybody else.

I guess where we come down is we think OPM has that authority now, or OMB has it now, that critical pay authority should be delegated to OPM, that agencies should come to OPM, justify that they need this many critical pay employees for these positions, and then go out and hire them. We would not have a problem with a system like that, again, so long as someone was looking at it and saying, yes, you do not have that skill, go buy it.

Senator VOINOVICH. Basically, it is just using common sense to shape an agency and get the job done—

Mr. SHAW. Yes, sir.

Senator VOINOVICH [continuing]. The way it ought to be done, understanding that we need to have more money in those agencies in order to take advantage of the flexibilities that we would like to give the agencies.

Senator Akaka, one of the jobs we have is working with the appropriators, and I am going to talk to the administration, also, about the issue. They put a budget together and in the budget, I think there should be some reconsideration of how resources are allocated. I mean, we have the issue of homeland security, and so often when the budgets are put together, the focus is on hardware and not enough attention is given to human beings.

You win with people, and I will never forget our March 2001 hearing, where former Defense Secretary Jim Schlesinger said, “fixing the personnel problem is a precondition to repairing everything else in our national security edifice.” That is it. And somehow, we have to get people to understand that human element, that good people really make the difference, and if we have them at Federal agencies, a lot of these other problems—even national security problems—might be a lot less prevalent than they are today.

Mr. SHAW. That is true. I agree.

Senator AKAKA. Thank you for that discussion.

Mr. Harnage, in talking about flexibilities, you point out in your remarks that these bills offer incentives and bonuses to upper management without focusing on the majority of the Federal workforce. You note that the human capital crisis is as severe for those in the skill trades who are paid under the Federal wage system as those under the general schedule. How can a wider range of Federal workers be better served by these flexibilities?

Mr. HARNAGE. Well, in the first place, we have to fix both pay systems, the wage grade pay as well as the GS or the white collar pay. But our concern with the bonuses is it appears to us to be more of a band-aid fix where we are providing bonuses because our pay system is not sufficient. If we fixed the pay system, there would still be places for bonuses, but it would not be a band-aid fix, it would really be an incentive to either stay with the govern-

ment, come to work with the government, or do a better job. But a bonus over a 4-year period is looking for a transit employee rather than a career employee, in our opinion, and that was the reason that we were concerned about the bonuses. We are not so much in opposition to a bonus. We are saying, but you have got to fix the pay before the bonus has any significance to the entire workforce, to fixing the problem.

Last year when there was a change in for the SES, I raised a little objection to it, but not because of what was done but because it was a band-aid approach. I think we need to fix everybody's pay, and I am certainly in favor of raising the cap, eliminating the cap on the SES, as well as the cap on Congress. I think it is just a bad way of doing business.

The pay ought to be based on a formula that decides it from year to year rather than it having to be voted on every year by Congress. It puts you in an embarrassing situation where you are voting on your own pay. I think you need to find a way out of that and you will find a way out of the SES, as well. So we are in favor of raising those caps or eliminating the caps altogether.

Senator AKAKA. Thank you for that.

Mr. Shaw, you and I have talked about pay compression within the ranks of the senior executives before and I believe your testimony provides a strong case in support of legislation to fix this problem. In addition, your statement notes that within 5 years, 70 percent of all senior executives will be eligible to retire.

Mr. SHAW. Yes, sir.

Senator AKAKA. I found it interesting that Mr. Priolo recommends in his testimony that there needs to be a program to mentor new managers. He also suggests the need for a structured senior executive development program to identify and train potential SES candidates. Both seem like necessary components of any strategic human capital program. How are prospective SES candidates identified and what arrangements currently exist between SES and Federal managers to foster promotion?

Mr. SHAW. The SES members that are in our Association do mentor. They have to be very careful, however. If they are mentoring someone, it might look like you are picking out one or two people that you are going to help along, then other people are concerned that they are not going to be helped along. That is something that they have to be careful of. One or two agencies have formal mentoring programs. Everyone should.

There are two types of career development programs, executive development programs in the government today. There is the one such as the IRS, where the agency, through a very rigorous process, selects a number of managers to go through a 6-month training program and some on-the-job training, (and these selectees come from both outside and inside government). They look at all government agencies, and private companies to solicit applicants. Those who are selected and successfully complete the program are going to become senior executives and that is an excellent system, in my judgment, for two reasons.

One, you have gotten all of the requirements out of the way going into the system so that the people who graduate from the

system, know they are going to become executives. You give them development, etc., as they go along.

The other system is the one that just about every other agency has, which in our judgment and experience is not a good system. What it does is they advertise that they are going to have a career development program or an executive development program. People apply for it and come into the program. They take just about everybody who is interested, unless they believe the applicants are not able to make it at all. They run them through the program and then they send them back to their old jobs and they are called executive development potentials; or something like that. And then whenever an SES vacancy comes up, they look at those people in the program, but they also look at people who have never gone through the program, and in many instances, they select people who have not gone through that program.

So the people in the program have said, "What did I waste my life for, for a year going through this program, and I have got nothing except I feel good and I feel like I accomplished something, but I am not going to get these jobs, so that does not do anything." That is how most of the agencies' programs work.

They have been a failure, in my view, other than the candidates who have gone through them have learned something and been trained in a variety of skills. But because of that, a lot of people have given up on the executive development program just because so many people who have gone through it have not been selected.

So we strongly recommend that there be executive development programs, and they do as in the IRS, and that is a track all the way up from GS-13, up that. All know what they have got to do to qualify for it. They get selected for the training, and it means they are going to be an executive. That means a lot of things, good things and bad things. For example, you have got to be mobile, etc. We would suggest if you are going to set up a program or require agencies to have a program, that it be a program that when you complete it, you are going to be selected for an executive position in the near future.

Senator AKAKA. I thank you very much for your responses. I have additional questions that I would ask for the record and I would appreciate your timely responses.

I wish to thank you for being with us this morning, and I feel we had an extremely engaging discussion. We heard where there is agreement and where there is disagreement.

One thing is very clear. We should not create new flexibilities today that will become the constraints of tomorrow. It is the responsibility of us all to work together to ensure that the Federal Government has the workforce that is needed to carry out government services.

I would like to call on my friend, Senator Voinovich, do you have any closing remarks or any further questions?

Senator VOINOVICH. No, I have not, except to say I really appreciate your being here today and look forward to continuing to work for you as we shape this legislation up so that it gets the job done. Again, I do understand that we need to do some serious work in some other areas if this is going to be successful.

Senator AKAKA. Your responses will be useful to this Subcommittee.

Again, I thank everyone for attending the first day of our 2-day hearing. I invite you to join us tomorrow morning at 10 a.m. when we will hear from Dr. Paul Light, Dr. Carolyn Ban, Max Stier, and Dr. Steven Kelman. We will look forward to that hearing.

I again thank you very much. This hearing is adjourned.

[Whereupon, at 12:09 p.m., the Subcommittee was adjourned.]

THE FEDERAL WORKFORCE: LEGISLATIVE PROPOSALS FOR CHANGE

TUESDAY, MARCH 19, 2002

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:03 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Subcommittee, presiding.

Present: Senators Akaka and Voinovich.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Good morning. This hearing will come to order.

Today is the second day of our hearing on the Federal workforce and legislative proposals offered by Senator George Voinovich and Senator Fred Thompson.

For those lucky enough to have been with us yesterday, like Dr. Ban, you know that we had a stimulating discussion which was enhanced by the diverse views expressed on how we should proceed with civil service reform.

I am pleased to have with us this morning a panel of distinguished witnesses who have had years of experience working with the issues we are grappling with today, and I am equally pleased to be joined by my friend, Senator Voinovich. Again, I thank you and I had a great hearing yesterday, and you had some great questions yesterday, too.

With about half the Federal workforce eligible for retirement within a few years, there is no question that we must look toward new employees. Unless we are able to convince sufficient numbers of young people to seek careers in public service, our government will be unable to meet the needs of the American people.

At the same time, we must ensure that the current Federal workforce has the tools they need to perform their jobs. There must be adequate resources devoted to training and enhancement of skills, better utilization of institutional knowledge, and a commitment from the highest levels of government to honor Federal employees for their contributions to our great Nation.

Yesterday's witnesses differed in their approaches to the problems we face. However, they agreed that the pay gap, lack of funding, performance appraisals, better training for managers, and outsourcing quotas were issues that must be addressed in order to

strengthen the Federal workforce and make Federal service more attractive.

Because you all have held positions in the Federal Government, your recommendations are grounded in practice and offer unique perspectives on how to best recruit, retain, and motivate the Federal workforce.

Every administration comes into office with a specific agenda, and I am convinced that we must separate policy from politics. Therefore, I want to know how we can best achieve balanced reform of the civil service system without imposing changes dictated by political considerations.

Again, we look forward to your statements. I now want to yield to my good friend and colleague, Senator Voinovich, for his opening statement.

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. Thank you, Mr. Chairman. I would like to thank you again for convening this hearing. I thought yesterday's hearing was very worthwhile.

I welcome our witnesses and thank them for being here today.

As I indicated at yesterday's hearing, the human capital legislation being considered by the Subcommittee is extremely important to the Nation, and every day we hear more and more examples of why there is real urgency to get this legislation passed.

I mentioned yesterday that I was at a hearing last week with FEMA Director Joe Allbaugh and after his presentation on his agency's new role in dealing with first responders, I asked him what was going on in terms of FEMA's staffing, and he said he is in panic over it. He said, "I think we are going to lose 55 to 60 percent of our top people." One of his concerns was that after September 11, many of the people in FEMA—which is a very high-pressure operation—indicated that they were going to retire, that they were looking at life a little differently than they did before September 11. I suspect we will be seeing more of that in some of the other agencies, so that adds an additional dimension to the challenge that we have.

Today I am looking forward to learning our witnesses' views and recommendations on the legislation that is before the Subcommittee, S. 1603 and S. 1639, particularly the draft managers' amendment which we are developing. The focus of these bills is, of course, management flexibility. While compensation is important—and we certainly got into that yesterday—it is only half the picture. The other things that we are talking about are also significant, I think, if we are going to have a competitive total employment package that is going to change the situation.

Our witnesses today bring a wealth of experience in the area of Federal personnel management, and I want to thank each of you for taking time out of your very busy schedules to be with us.

Paul Light's name has been synonymous with civil service reform for many years; it is great that he is again playing a central role in the work of the National Commission on Public Service, chaired by former Federal Reserve Chairman Volcker. I look forward to a productive relationship with that panel and have read in your testimony what you expect to accomplish with Mr. Volcker.

While Max Stier's organization, the Partnership for Public Service, is fairly new to the Federal scene, Max is not. Having served in all three branches of the Federal Government throughout his career, he brings a great deal to the table in our ongoing conversation on reforming the civil service.

I think it is wonderful that the Partnership's benefactor, Sam Heyman, has chosen to give back to our Nation by founding this organization. It has come at absolutely the right time as far as I am concerned.

Harvard University's Kennedy School of Government, one of the premier public affairs institutions in the world, has also taken a lead role in addressing the human capital crisis. Under the leadership of Dean Joseph Nye and with the assistance of Professors Steve Kelman and Elaine Kamark, the Kennedy School has convened a series of executive sessions on the future of public service that are proving valuable in the discussion of how to fix these pervasive governmentwide problems.

These sessions have yielded a wealth of information and provided many excellent recommendations for improving our legislation, resulting in a number of positive changes of the bill—and Steve, I am very grateful to you and Dean Nye for your contributions.

I am also pleased that you are here today because as a former Clinton Administration official, I think you demonstrate that our work together on this issue is a truly bipartisan effort.

Finally, it is great that Carolyn Ban is on this panel of expert witnesses. I was so honored last October to address the National Association of Schools of Public Affairs and Administration, the organization that Dr. Ban leads, and to receive an honorary national membership in Alpha Alpha, the public affairs and administration honorary society.

The involvement of our colleges and universities is a critical element in our campaign to attract our Nation's best and brightest young people to public service. I recently sent a pair of letters to the public affairs departments of Ohio's NASPAA institutions and to the presidents of all major colleges and universities in the State, encouraging them to proudly advertise careers in public service as great opportunities for their students.

I think the future of our Nation depends on the kind of job that you are going to be doing. We are going to try to straighten this situation out to make it a lot more attractive, and we have to go out and take advantage of opportunities to attract these young people who are so important to the future of our country.

Again, Mr. Chairman, I thank you for holding these hearings, and I really look forward to the witnesses' testimony today and to our discussion.

Senator AKAKA. Thank you very much, Senator Voinovich.

Now we will hear from our panelists. I ask that you limit your oral statements to 5 minutes. When you see the red light come on in front of you, please try to wrap up. Be assured, however, that your complete and full statement will be made part of the record.

Our first witness is Dr. Paul Light, and I will refrain from saying more about each of you, because Senator Voinovich has done a good job of that.

So Dr. Light, please proceed.

TESTIMONY OF PAUL C. LIGHT,¹ SENIOR ADVISOR, NATIONAL COMMISSION ON THE PUBLIC SERVICE, AND VICE PRESIDENT AND DIRECTOR OF GOVERNMENTAL STUDIES, THE BROOKINGS INSTITUTION

Mr. LIGHT. I am pleased to be here this morning representing The Brookings Institution and the Center for Public Service. I am also a senior advisor to the Second National Commission on the Public Service which is chaired by Paul Volcker.

We had a meeting of the Volcker Commission last week and discussed specifically the question of the Volcker Commission's use as a possible impediment to forward motion on reform. The Commission does not want to play a role here as being anything but supportive of activities in forward motion on improving the public service, be they incremental or comprehensive.

We talked about the issues pending before this Subcommittee and the full Committee, before Congress and the administration, and the Volcker Commission wants to be clear that it does not want the comprehensive to be the enemy of the incremental. I would just put that on the record in behalf of the Commission. It does not have a position on any of the legislation pending before this Subcommittee. We have not had an opportunity to discuss these issues—we are just getting under way—but the chairman and the members of the Commission who were at the first meeting last week were clear that they support all good faith efforts to improve the public service, be they incremental or comprehensive, and they do not wish to be seen as in any way, shape, or form acting as an obstacle or hoping for a delay in action pending our final report next October or November/December, whenever we actually bring this report to completion. We have a term limit on the Commission of about 12 months, and we hope to be done by December.

I would say personally that we have before ourselves on this Subcommittee and in Congress and the administration a pile-up of distress that we see in hearings like the one you held yesterday. There are a ton of issues to be addressed on public service reform, from pay to career structuring to the flattening of the hierarchy to Presidential appointee reform. I personally believe that we ought to have a moratorium on further outsourcing until the Comptroller General and his panel complete their work, but we cannot allow ourselves to fall into the trap of doing reform once every 25 years and then leaving it to the next generation of legislators to repair what we did a quarter century ago. If we look at the tide of legislative reform over the past half-century, we have done civil service reform twice—in 1946 with classification reform; and in 1978 with the Civil Service Reform Act—and then we have done a little bit of tinkering around the edges in 1990 with FEPCA and occasionally other legislation. But we have converted the civil service reform issue into a once-ever-25-year affair.

There are three reasons for that. One is a lack of systematic data that we can use to track and adjust in real time. Senator Voinovich knows the story very well about the lack of meaningful data within the agencies on training. We do not know what is being spent, and

¹ The prepared statement of Mr. Light appears in the Appendix on page 191.

therefore, we cannot track it, therefore, we cannot adjust appropriately.

We have also had a long-term belief that one size fits all as far as Federal reform goes. We need to struggle a little bit more with decentralization as an issue, and the Volcker Commission is most certainly going to do so.

There has also been a search for the perfect reform. Let me tell you there is no such thing. Whatever reform we try is going to need to be adjusted; we are going to need to fine-tune; we are going to find agencies where it does work and agencies where it does not work. We have got to stop searching for the perfect reform, and we cannot allow the perfect to be the enemy of the good.

The impact is clear, as I write in my testimony, in the anti-terrorism workforce. We have a terrific workforce in the Departments of State, Justice, Treasury, and Defense. We have a terrific workforce at FEMA. We have employees who want to do better at INS and in the Border Patrol and in Customs. The motivation is good. The recruitment is lousy. The resourcing is shameful. The rewarding is casual, and the trust is declining.

I do not believe the recent reports on INS will do anything but weaken public support and public confidence in the war on terrorism and public confidence in the battle for homeland security.

What are you to do as a Subcommittee? As I said before, there are lots of areas for work. The Chairman has his own history on the human resource issue. We would not find a single private corporation in America that waited 25 years to adjust its human resource policies, especially in a labor market like the one we have currently. I wish I had a nickel for every time a Federal recruiter told me last fall that the best thing for the Federal Government workforce recruitment effort would be furtherance and a deepening of the recession; that is how we operate in this town.

I believe that practically everything this Subcommittee will do in terms of legislation pending before it will help. I believe the key is to get started on reform and to make forward motion as soon as possible. We need to show the Federal workforce and the labor market that the Federal Government means business about being a more effective recruiter. The best way to do that is to start passing legislation. It will not be perfect, but it can be very good.

Thank you very much.

Senator AKAKA. Thank you very much, Dr. Light, for your comments and your advice to all of us.

Senator AKAKA. Our next panelist is Dr. Carolyn Ban. Please proceed, Dr. Ban.

TESTIMONY OF CAROLYN BAN,¹ DEAN, GRADUATE SCHOOL OF PUBLIC AND INTERNATIONAL AFFAIRS, UNIVERSITY OF PITTSBURGH, AND PRESIDENT, NATIONAL ASSOCIATION OF SCHOOLS OF PUBLIC AFFAIRS AND ADMINISTRATION

Ms. BAN. Good morning, Mr. Chairman, and good morning, Senator Voinovich.

I am delighted to be here. As the Senator pointed out, I am the dean of one of the major schools that is training people for public

¹ The prepared statement of Ms. Ban appears in the Appendix on page 207.

service. I am also president of NASPAA, the National Association of Schools of Public Affairs and Administration, which represents over 250 programs offering degrees in this area. I am a scholar who has studied the Federal civil service for over 20 years, and I am very proud to be a former career civil servant.

I am not going to read my written testimony; I appreciate the Chairman telling us it will be in the record.

I think all of us share a common value here. I think we are all concerned with reforming our human resources systems with the goal of improving government capacity, but we may disagree on some of the specific proposals. I also appreciate very much Senator Voinovich's statement because this should not be a partisan issue. I am very hopeful that we are at a point where meaningful change is possible. So I applaud you, Senator Voinovich, and all of the Senators who have sponsored this legislation.

I do not think this is the major reform, but it is an incremental process, and I think most of the reforms in this bill are things that I support very strongly. I do want to spend my time talking about the bill itself and some of the provisions within the bill, both those that I support and those that I have some concerns about, because I think now is the time that we can perhaps make some adjustments. And I am going to focus my remarks initially on three areas—on the area of hiring, on the area of training and education, and on the general issue of dealing with problem performers.

In terms of hiring, I think this bill contains a potential reform that is a very important and significant one, and that is allowing agencies to use what is called "category rating." Category rating in some other jurisdictions is called "zone scoring" or "band scoring." Whatever we call it, it is a little bit in academic terms like giving people an A or an A-minus rather than a 95 versus a 94. Even when we are using valid selection methods, I think even the folks who develop the tests and the selection methods would agree that our methods are not so precise that we can really tell a manager that somebody who gets a 95 on a selection procedure is going to be a better employee than somebody who gets a 94.

The way the Rule of Three currently works in the Federal system, if you have 10 people who score a perfect 100 on this selection procedure, whether it is a written or what is called an "unassembled examination," the HR office can only give the manager a list of three people. Now, how do they get down from 10 to 3 when these people are all equally qualified and have identical scores?

First, they use veterans preference, and I think that is legitimate. Second, if the manager tells the HR office, "I am interested in seeing a certain person on the list of people," and there is a tie-breaker, that recommendation by the manager might break the tie.

Absent those, we use a random selection process. They use a table of random numbers. It is like pulling people's names out of a hat. This is not an equitable way to make those kinds of decisions, and there is no reason why the manager should not be allowed, even under the current Rule of Three, to see all of the people who got the top score. But I think that moving to a carefully drawn category ranking system is a far fairer, more equitable system that gives managers reasonable choices but still upholds a concept of merit.

I would recommend that you look at State Governments that have done this as a model. One of them is New York State, which has moved effectively to band scoring, and the director of the Department of Civil Service there, George Sennet, who is a Pataki appointee, has been very successful not only in doing this but in getting the unions to buy into it. The unions initially opposed it, but when the system was made a little more carefully drawn, unions did go along with this. So I think we need to look at how to allay the concerns of the unions in this area.

The second area is training, and I applaud the reforms that both require agencies to develop training programs in the areas of training managers and dealing with poor performers; I applaud and strongly support allowing agencies to pay for people to get a college education or a graduate degree when it is in the interest of the agency; and I strongly support the emphasis on training.

My time has run out, but when we have time during the Q and A, I would like to be able to go back to the issue of dealing with poor performers.

Senator AKAKA. Thank you very much, Dr. Ban. I now call on Max Stier. You may proceed with your statement.

TESTIMONY OF MAX STIER,¹ PRESIDENT, PARTNERSHIP FOR PUBLIC SERVICE

Mr. STIER. Thank you, Chairman Akaka and Senator Voinovich. Thank you for inviting me to testify here today, and thank you, most importantly, for your leadership on these critical issues.

I appreciate the opportunity to discuss the challenges facing the Federal workforce, and I will offer the Partnership for Public Service's perspective on the Federal Human Capital Act and the Managerial Flexibilities Act.

The Partnership was founded just under 1 year ago in response to the very issues that the Subcommittee is examining today. Skills gaps created during the downsizing of the nineties are soon to be exacerbated by a wave of retirements, and at the same time, very few talented Americans see Federal jobs as good jobs.

All of the government activities that are so vital to us, from protecting our country to regulating our markets, will soon be severely threatened unless we improve the government's management of its most important asset—its people.

I would like to use my time here today to focus on the importance of the Chief Human Capital Officer position that is created by the Federal Human Capital Act. The Partnership has worked very closely with congressional staff in developing this proposal, and we believe it is vitally important not only for the success of the measures you are considering today, but also for the success of subsequent civil service reforms that this Subcommittee may be asked to consider in the coming years.

Simply put, the Chief Human Capital Officer proposal is the logical continuation of a long process begun under the first President Bush to require agencies to manage for results. In 1990, Congress passed the Chief Financial Officers Act in order to improve the financial management of the Federal Government. The Act required

¹ The prepared statement of Mr. Stier appears in the Appendix on page 215.

each Federal agency to designate a person to serve as its chief financial officer and to oversee all of the agency's financial management activities.

Although much remains to be done, the CFO Act has sparked substantial improvements in government financial management practices. We have financial standards, we have financial auditing, and we have reporting on these measures—something that did not exist previously.

Six years ago, Congress enacted similar provisions with respect to agency information practices, including the requirement that all agencies designate a Chief Information Officer. The Government Performance and Results Act has also required agencies to track and report on the results they are able to achieve.

These reforms, taken together, have put in place most of the structures that are needed to manage a high-performing organization with one notable exception, and that is human capital management.

The top corporations in this country uniformly acknowledge the importance of having a human capital officer in a position of top responsibility—a position that is equal to other vice presidents responsible for the organization's performance and success. Each of the top 10 corporations on the Fortune 100 list has such a position. I think we need to look to the private sector and learn from the example that we have there. Jack Welch, the former CEO of GE, emphasized the importance of human capital management. As he bluntly put it: "We spend all our time on people. The day we screw up the people thing, this company is over."

Both the Federal Human Capital Act and the Managerial Flexibilities Act propose to grant agencies new flexibilities and authorities in the hope of improving the government's ability to recruit and retain the talent and skills that it desperately needs. I would urge the Members of this Subcommittee to think of a chief human capital officer as an indispensable agent of change, acting under the direction of the political leadership but not being political themselves within each agency, who will be equipped with the authority and the expertise to ensure that these new tools are deployed efficiently, strategically, and to maximum effect.

In order for the chief human capital officer to play this role, we believe that the current legislative proposal could be strengthened even further, and we are eager to work with the Subcommittee to accomplish this. Our suggestions focus on two areas. First, we must use competencies to select the right people for these positions—a point that Comptroller General Walker made. This bill is not simply about putting a new label on positions currently held by HR directors across the government but about transforming the very nature of the job.

Second is to ensure that these officers have a clear mandate to develop, use, and report to Congress on meaningful measures of their agencies' human capital performance, a point that Dr. Light made earlier.

In our view, the most critical management tool is information. If you can measure it, it can change. The chief human capital officer should be required to develop specific groups of metrics that are aligned by the agency's strategic plan, with special emphasis on

such areas as time to hire, success of recruitment efforts, and employee development. Again, this is akin to the training positions that are already in the bill.

There are many other positive steps being proposed in these bills—the category ranking system proposed in the Federal Human Capital Act, for example, has been proven to be a fair and effective way of selecting qualified applicants that gives managers better choices and still preserves the important merit principles of fairness, diversity, and respect for veterans preference, a point which Dr. Ban made very well. And the Partnership generally supports the enactment of both sets of legislative proposals with a few caveats which are set out in the written testimony.

Thank you very much. I look forward to further discussion during the question time.

Senator AKAKA. Thank you very much, Mr. Stier. Our last panelist is Dr. Steven Kelman. We look forward to your testimony. Please proceed.

TESTIMONY OF STEVEN J. KELMAN,¹ PROFESSOR OF PUBLIC MANAGEMENT, JOHN F. KENNEDY SCHOOL OF GOVERNMENT, HARVARD UNIVERSITY

Mr. KELMAN. Thank you, Chairman Akaka and Senator Voinovich. It is a privilege to have the opportunity to come before you today, and I am here to express my support for the managers' amendment and for other activities this Subcommittee might initiate to help the Federal Government win the war for talent.

For the last 22 years, I have been a professor of public management at Harvard and have devoted my professional life to working to improve the management of the Federal Government and to attract young people to public service. So I feel just like Dr. Ban—I am on the front lines of the war for talent in the Federal Government and trying to attract young people.

As a citizen and as a teacher, I want to suggest that everybody here honor and applaud both of you, both Chairman Akaka and Senator Voinovich, for the commitment to the public good, really in the best tradition of the U.S. Senate, that both of you are demonstrating by your interest in this issue. This is not going to get headlines; no one is ever going to win an election on this. But this is the right thing to do. This is statesmanship.

I have been to enough hearings so that I know what I am about to suggest is very unusual, but I am going to do it anyway, at the risk of being very unusual. I am going to ask that my fellow panelists and the people in the audience join in a round of applause for Chairman Akaka and Senator Voinovich for your work in this area.

[Applause.]

I hope that does not take away from my time.

I want to just highlight a few of the features of my testimony. First, although today's hearing is not on S. 1800, the Homeland Security Federal Workforce Act, I would like to endorse the provisions of that bill establishing National Security Fellowships, a National Security Service Corps, and improvements in student loan repayment.

¹ The prepared statement of Mr. Kelman appears in the Appendix on page 221.

Second, I want to agree with Professor Ban and Max Stier. I believe that one of the most important provisions of this bill is Section 202, which would establish a category ranking system as a replacement for the Rule of Three.

Right now, the criteria that are used to set up the Rule of Three are for various reasons quite formulaic and bureaucratic, and there are lots of things that typically, the hiring manager, the person who actually has to deliver the results from the organization, does not get to look at—when they choose the top three—for example, community service, work ethic, things like that. Once the candidates get to the hiring manager, they can look at those things.

So our goal should be to get a larger pool of people into the hands of the hiring managers so they can start looking at a broader range of criteria rather than just the formulaic, bureaucratic ones, and getting the three people who are established by the personnel folks who do not have a direct interest in the agency actually producing the results in the same way as the hiring manager does. So I think that is a very important provision of this legislation.

Third, I would urge that the managers' amendment have an additional provision to amend Title 5, which currently states that hiring and promotion decisions should be based on "the knowledge, skills and abilities of candidates," by adding to that list "the knowledge, skills, abilities, and accomplishments."

The current language was written a long time ago at a time when we did not have the same focus on getting results out of the government. I saw a recent article in my home town newspaper, *The Boston Globe*, on how private sector firms evaluate resumes of people who are applying for jobs. There are a lot of quotes here, but the basic point of the article was that what people look at when looking at resumes is accomplishments. They quote a person as saying, "If you just list responsibilities of previous jobs excluding accomplishments, an employment manager is like to say 'So what?' and move on to the next resume."

I think Congress can send a real signal that we really care about a results-oriented Federal workforce by adding the word "accomplishments" to the statute.

Next, I want to briefly talk about things that the Subcommittee and Congress can do other than legislation to get a Federal workplace that is a workplace oriented toward results and oriented toward our employees, because a lot of the things that you can do do not have the words "human capital" or "civil service reform" attached to them.

For example, I think there is nothing this Subcommittee can do more than continue working on the Government Performance and Results Act as a way of expressing interest in this. Second, we should not forget the Hippocratic injunction, "First, do no harm." We have a real habit in this town of doing what I call "management by scandal," where we create an overly bureaucratized Federal workforce and Federal workplace by focusing on a small number of scandals. We saw it last week in the hearings on the Federal credit card, where you take a small number of fraud examples, and that might be used as an excuse to destroy a very valuable program and create a more bureaucratic workplace. So, first, do no harm.

I want to conclude with a message to the Subcommittee from one of my students, Michael Jung, from Ashland, Kentucky, who is representing the students in our executive sessions at the Kennedy School. I asked Mike what message I should give to Senator Akaka and Senator Voinovich, and his message is this: "Sirs, I take your deliberations very seriously because there are lots of people in my generation who are interested in service. But we need to have faith that the government will value our abilities and challenge us to realize our full potential as professionals."

So let us not disappoint Mike. Thank you.

Senator AKAKA. Thank you very much, Dr. Kelman.

We usually do not have panelists who call for applause.

Mr. KELMAN. I know it is unusual, but I am so happy that both of you are taking an interest in this very important issue, because no one is every going to win an election on it.

Senator AKAKA. And I want to pass through you to Mike that there is no question that this government values the abilities of young people. We depend on them and their accomplishments.

I appreciate your insightful and thoughtful comments, panel. Let me begin my questions by asking all of you, except Mr. Stier, whose statement focused on the need for a chief human capital officer, do you believe that the creation of these positions will ensure that human capital management is given equal priority across the agencies? What authority would this position need to make the strongest contribution?

And finally, should this be an appointed position or one filled by a career employee?

I will start by asking Dr. Light for his comments.

Mr. LIGHT. The first chief financial officer in the Federal Government was actually created in 1988 under the Department of Veterans Affairs Act, which came through the Governmental Affairs Committee. Senator Glenn at the time was the Chairman, Senator Roth was ranking. The notion was that a chief financial officer would create a presumption in favor of greater attention to financial management.

Whether it has done so over the past 10 years is really in the eye of the beholder, but the notion of creating chief human capital officers, or CHCOs as they are called now at least in some quarters, creates a presumption in favor of paying greater attention to human capital issues. That by itself will not do it. The chief financial officers were given substantial authority. The Chief Financial Officers Act and the 1988 veterans elevation required the chief financial officers to produce financial statements. It also required the chief financial officers to have those financial statements audited by the inspectors general or contractors selected by the inspectors general.

In other words, you had an enforcement mechanism; you had something for the chief financial officers to do. We hear year after year that the audit statements are not quite right and that some of them are not coming in quite right, but they are working on the issue.

If you create chief human capital officers in government and give them nothing to do by way of measurement, tracking, auditing, and so forth, then all of you have done is create a new title. And I think

the legislation takes an important first step toward giving them substantial authority.

I think they have got to be Presidential appointees. That is the coin of the realm. If you want them to sit at the table with CFOs and CIOs and chief operating officers, all of whom are political officers, you have got to make them Presidential appointees. Lord help us, we have not quite fixed the Presidential appointee process. You have a bill pending here in the Subcommittee that could easily be attached as part of this legislation to improve the process. But if they are career officials, they are not going to be invited to the table. We have to be blunt about it. They have to be Presidential appointees with the full Senate advice and consent function attached. That is the coin of the realm. And I have made that argument with regard to other officers in the Federal establishment.

Senator AKAKA. Dr. Ban.

Ms. BAN. I do support the proposal to establish chief human capital officers. I do not think that simply creating the position will ensure that human capital will be given uniform attention, but I think it will help.

I agree with Dr. Light's comment; there needs to be some oversight of this function and a clear sense of the difference between the human capital approach and the more traditional human resources approach.

I just had an extended email exchange with the director of research of the Partnership last week on this very question of whether it should be political or career, and I took the position that Dr. Light does, that it should be a political appointee, because they will be given a seat at the table. But I need to at least acknowledge that there is another side to this. We all know that political appointees come and go, sometimes fairly quickly.

The other side of the argument, the advantage of having a career person, is that you have a more stable, long-term leadership in this area.

So I do recognize there are two sides to this question; however, if forced to come down on one side, I will say that I would prefer to go with the political appointee.

I think the issue, however, is not just the chief human capital officer; it is the person who heads the agency—it is the secretary, it is the director. And when we confirm people in those positions, I do not think we necessarily emphasize their ability to manage their organizations. If they understand and value good management, they are going to be more likely to listen to their human capital officer.

Senator AKAKA. Dr. Kelman.

Mr. KELMAN. I think that both establishing a chief human capital officer and also, nobody has talked about a Chief Human Capital Officers' Council—I think both of them have some real potential advantages.

In terms of the chief human capital officer within the agency, I would agree with the earlier speakers that getting an increased level of visibility and attention on these issues, particularly the strategic value of people, and talented people, in delivering results to the government, I think is a good thing, and it is a new focus.

As Senator Voinovich mentioned, I served in the Clinton Administration, not in this area but in a related area, and I think that in the Clinton Administration, we did a number of good things in this area, but I think it is fair to say that the strategic approach toward human capital management that has come to the fore in the last few years just really had not come to the fore in the same way at that point. I think that having the chief human capital officer can help in that regard, assuming that the person either meets some competencies, as Max Stier suggested in his testimony, so it is not necessarily just the existing HR person or, worse, "personnelist," to use the old phrase, from the Federal Government.

I think the Council is important because more and more academic research on how organizations work well suggests that setting up networks of people to share knowledge, share best practices, share information, share approaches, is a very important thing in getting organizations to perform well.

So I think that having a situation where the different human capital officers in the different parts of the Federal Government meet regularly, get to know each other, talk to each other, can be very valuable.

I do not have a strong view one way or another, frankly, on the political versus senior career, and I am not sure there needs to be a one-size-fits-all. Some of the chief information officers in the Federal Government are political, but most of them are actually career. And one argument for career—and I recognize the arguments on the other side, but since everybody has come out on the political size, let me remind you of the argument on the career side—is that from a career progression point of view for a career civil servant, the higher the job that she or he can aspire to if they do a good job in their public service—that is, they start as a GS-5, the more they can have to look forward to—"Gee, if I really do a good job, someday, I might be the chief human capital officer of this agency."

That is an argument for making it career. I also recognize the arguments on the other side, and if the Subcommittee would like, I can talk to my colleagues at the Kennedy School and submit something additional for the record on this. I think there are arguments on both sides.

Senator AKAKA. Thank you very much, Dr. Kelman.

Let me ask Mr. Stier, briefly, do you care to add anything in response to this question?

Mr. STIER. I think the arguments have been well-presented here. I think from the Partnership's perspective, there clearly are arguments on both sides as to whether or not the position should be political or career. We come down on the side of career for the arguments that have been presented already. Dr. Ban suggested, and I think it is right, that you need continuity from administration to administration. What we really need here is focus on a set of issues that are not easy for political leadership to pay much attention to.

So I would say that in the ideal world, you would have a chief human capital officer who was career and then have a political leadership in an agency that recognized the importance of the issue and relied on the career person to do their job and invest in the people part of the agency. That is the model that I think is the stronger model.

I would say that the more important pieces are to ensure, again, as Dr. Light suggested, that there really are some substantial functions that officer is playing and there are measurements or metrics that are included at some point so we have some way of knowing what is happening inside the agencies and across agencies. I think that is going to be absolutely critical.

Senator AKAKA. Thank you so much.

Today, some of our witnesses, along with Senator Voinovich and I, raised pay comparability as a critical issue in solving the recruiting problem. The National Commission on Public Service will examine nine areas of concern in the Federal Government, including the pay gap between private and public sector jobs for upper management employees.

At yesterday's hearing, David Walker said there should be a study to develop more realistic and workable methods and solutions to Federal pay issues. What is the rationale for limiting the Commission's review to upper management employees, and do you personally believe that there should be a governmentwide study of pay issues similar to the one that was performed prior to the enactment of the Federal Employees Pay Comparability Act?

Mr. LIGHT. Let me respond in two ways. First, the number of issues that the Commission is considering now is up to 14. It seems to be an ever-expanding list. We are going to release on Friday of this week at Brookings a report on pay comparisons, compensation comparisons, between Presidential appointees and the private sector, and that is going to show an outrageous gap, the question being how much of a discount or price do you want Presidential appointees to pay to come into government.

We think there is very good statistical evidence of pay compression at the top of the Federal hierarchy. We think there is less good evidence of pay gaps toward the middle and the bottom, which would argue for less of a comprehensive approach to compensation reform and more of a layered approach that might take on the Presidential appointee, the judges, and others who are trailing the private sector by significant margins, and try to understand a little bit better what is happening at the entry and middle level, where research by the RAND Corporation among others suggests that the pay gap in position is quite different between the pay gap in person—in other words, that we hire people in positions that are substantially less well-paid than the private sector, but we promote them rapidly, so that by the end of the second or third year, these individuals may no longer experience much of a pay gap at all.

I guess what I would say to the Comptroller General is that if he can do the study quickly, let us get it done, but we cannot afford a 2- to 3-year analysis here. I believe the Director of OPM is working the pay issue, the compensation issue, and data will be coming out soon on some of these comparisons.

Senator AKAKA. Thank you very much, Dr. Light.

Dr. Kelman, we appreciate you coming from Cambridge to be with us today.

Mr. KELMAN. It was snowing yesterday in Cambridge.

Senator AKAKA. The proposals that we are reviewing today are intended to allow agencies to better recruit and retain the people they need. Yesterday's discussion included outsourcing quotas and

the negative effect that numerical quotas have on these essential human resource needs.

Drawing on your tenure at the Office of Federal Procurement Policy, do you believe that outsourcing quotas are barriers to these objectives, and how would you convince your students to work for the government, knowing that some could lose their jobs to a contractor?

Mr. KELMAN. Well, of course, in the private sector as well there is, if anything, more outsourcing that goes on in private sector to private sector than goes on in the public sector toward the private sector. So any person going to work for a Fortune 500 company or whatever, there is some risk that for reasons of, in the case of the corporation, good corporate policy or in the case of the government, good taxpayer policy or good public policy, that some jobs might be outsourced. Those are things that are just part of the risk that any young person going into a job faces.

Also, it should be noted that in A-76, if there is a public-private competition, and if the public side loses the competition, there is a right of first refusal in A-76 so the public sector workers are given an opportunity to go and work for the private sector contractor if they choose to. And in fact, in many of these competitions, they do end up going to work for the private sector contractor.

My overall view, Senator, is that we should make decisions on what jobs are in-house and what jobs are outsourced based on what is going to produce the best result for the government, for the taxpayer, and for the mission of the agency, and those considerations end up sometimes favoring doing it in-house and sometimes favor contracting it out.

I am inclined to be skeptical of trying to piggyback the politics of outsourcing onto the human capital crisis of the Federal Government. I think that those decisions about outsourcing—outsource or not outsource—should be made on their own merits based on what is in the interest of taxpayers, what is in the interest of good government performance, who can do the job better, government employees or contract employees. I am skeptical of trying to piggyback this onto the human capital crisis, frankly.

Senator AKAKA. Thank you very much, Mr. Kelman.

I now yield to Senator Voinovich for his questions.

Senator VOINOVICH. Dr. Light, in regard to the issue of pay comparability, I would be very interested to see what kind of methodology you would come up with to recommend how we can address this, because it is not an easy issue. I went through this when I was Mayor of the City of Cleveland, and it took us a year to look at all of the comparable positions. We have not looked at the classification system around here since 1949, and it has to be a giant mess right now. Finding some way to review the system so you do not get bogged down in years of analysis is very important, and I think that one of the things that needs to be understood straight out is that when you get into this issue, you are going to find people who are “red-circled.” I think that in your testimony, you mention that. I think everybody should understand that if you do this review objectively, you are going to find that there are people who

are substantially underpaid, and there are going to be some people who are overpaid. That is a real challenge.

I had to look at some folks who had been in city government for years and say, "You are red-circled," and some of them were very unhappy about it, and I said, "The only thing I can say to you is that for the last several years, you have been paid more than what you really should have been paid for the job that you are doing."

I think there is a tendency to think that everybody is underpaid, and the fact of the matter is that we are going to find that there are people in the Federal Government who are overpaid in the positions they have when you compare them with jobs that their counterparts have in the private sector.

Everybody should understand that when we go into this area.

Another comment I would make is about the issue of the chief human capital officer, and whether these should be appointed or civil service positions. We are going to be marking up the Presidential appointments bill this week. But if you look at how slowly things have operated here in the last year, and you have a new administration trying to figure out where to find competent human resources people in the private sector who would be willing to come to work for the Federal Government, the process of finding those individuals, I think, is going to be very difficult. I think we would be better off with perhaps having the chief human capital officers be civil servants. That does not necessarily mean that the new political appointee coming in may be happy with the CHCO, but if he does not like that individual, he can look around and find someone who meets his requirements. And that even gets to the issue that David Walker brought up yesterday, that is, the issue of an agency chief operating officer in the Federal Government to provide some continuity on management issues from administration to administration.

I have one other point about the appointment process. I mentioned yesterday that Donna Shalala said that when she came in for her confirmation hearing, nobody ever asked her about what management experience she had. And we tried to get at that with this administration, asking questions of the new appointees. We had a series of questions that David Walker actually put together that we asked them, and hopefully, that did some good to highlight the fact that when these people are hired, they ought to have some experience in the area of management, because they are taking on some enormous responsibilities. I just wanted to comment on those.

I would like you, Dr. Ban, to explain to us how the categorical hiring would work in the same example that you gave where you have 10 people, each of whom has a score of 100. How would it be different if we had categorical ranking procedure as contrasted with the Rule of Three? This is an area where we have some concern among our labor unions, and I think the Subcommittee would like to feel comfortable that if we go forward with this, which has been the practice at two agencies in the Department of Agriculture. We have some additional input on it.

Would you explain how that would work?

Ms. BAN. And it has worked well in the Department of Agriculture based on the evaluations that I have seen.

As I understand it—and it does work slightly differently in different jurisdictions—depending on the size of the pool of applicants, you decide what the top tier will be. That might be everybody from 95 to 100 on your selection method. And the manager can look at all of those people.

Senator VOINOVICH. So in this case, the manager would look at all 10 of them?

Ms. BAN. In that case, it might be more than just the 10 who got 100. You might also have some people who got 99, 98, 97, depending on where you draw the line, maybe all the way down to 95, and you might get 30 or 40 people if you had a large applicant pool. If you have a small applicant pool, you might even want to drop the bottom line a little bit lower. But all of those people would be considered roughly equally qualified, and the assumption is that if you have gotten into that top tier, you have got what it takes in terms of the technical skills, you have passed that kind of hurdle; then, the manager gets to look at all of those people, bring them in for interviews, ask for additional information, and say which one is the better fit in terms of some of those more intangible qualities that really make a difference on the job.

I have seen evaluations of category rating in other jurisdictions. If done right, it does not hurt veterans. In fact, veterans float to the top, and you have to pick them first if they are in that top category. So I do not think that veterans need to worry. And it does allow for a bit more diversity, because you can look at a wider range of candidates and maybe get a little bit more diverse workforce that way.

So I have not seen it abused; I have not seen it used for political purposes or other kinds of abuse. When it is done well, what I have seen is managers happy to have a few more people to look at before they have to make a decision.

Senator VOINOVICH. Would anybody else like to comment about it?

Mr. KELMAN. Yes, I would. Senators, imagine in your offices if you were hiring a legislative director, and the rule for hiring an LD or an AA was that a separate Senate Personnel Office looked at all the candidates and at how many years of experience they had had on the Hill, what courses they had taken, and that was basically what they looked at; and based on that, they came up with a ranking of only three people whom you could consider—they gave that to you and said, “Here are the three who have the longest number of years of experience on the Hill, who have taken the right courses, whose job description looks good”—maybe they have been an LD already or something like that—“and those are the only three you can look at, and that is it.” That is the Rule of Three that is imposed on Federal managers right now.

I suggest you would never accept that as a way to hire an LD for your offices. You would like a larger list of people who are all qualified, whom you can look at and use your judgment about who is the best fit for the job.

Mr. STIER. If I might, Senator, I would just add very quickly that, as Dr. Ban suggested, there is data out there that suggests that in the Federal Government, the system has worked quite well and that veterans have, if anything, been benefiting from the cat-

egory ranking system. The study done by MSPB indicated that for those veterans who were selected or were considered to be qualified, many more of them were selected under the category ranking system than were done under the alternatives.

I think that, as has been well presented by Dr. Kelman and Dr. Ban, it is a system that provides managers with the kind of flexibilities that we would be very supportive of.

On the flip side, I think it is quite important, though, to remember that we need to ensure that government managers are given the training and support so that they can appropriately make these decisions, and I think that is again an area that the Federal Government needs to begin focusing on, investing in, ensuring that the managers themselves have the tools they need to make these decisions in smart ways.

Senator VOINOVICH. Yesterday the issue of training was raised. We were talking about performance evaluations and getting rid of poor performers, and there seemed to be a consensus that with better training and understanding of what the roles are, managers could do a lot better job. So often, managers are frustrated and say the system does not work, but they really do not have the training they need to use the system that currently exists.

We focused on categorical ranking. What other provisions in this legislation do you think are really key things that will make a difference in terms of maintaining our Federal workforce and attracting others to it? I will open it up for the panel.

Mr. LIGHT. Carolyn, do you want to go ahead? [Laughter.]

Ms. BAN. I would be glad to; it would be my pleasure.

I am very supportive of recruitment, relocation and retention bonuses, and I think that making them more flexible is a very positive move. I am concerned—and this came up yesterday as well—that absent additional funding, managers are not going to use them, but I nonetheless think it is very appropriate to broaden that.

I am supportive of phased retirement. As I was preparing my testimony, I talked to some senior people in HR offices in the Federal Government who said that would be a really important tool. Allowing people to do phased retirement would allow them to have the conversation with people about when they are planning to retire and would allow them to plan for succession planning in a way that they cannot do. So I think that one has strength.

In the current version of the bill, it simply calls for a study of phased retirement, and I think that is OK, but we should probably move quickly to provide that as a tool.

Senator VOINOVICH. Is it more important today than it may have been in the past because of the crisis that we have in terms of regular and early retirement—

Ms. BAN. Yes.

Senator VOINOVICH [continuing]. That if we do not take advantage of that, we would have this large gap of institutional knowledge that is walking out the door—

Ms. BAN. Exactly.

Senator VOINOVICH [continuing]. And the concept is that because we find ourselves in this very difficult situation, phasing it out

would help with succession planning and be able to execute this transition in a more logical way.

Ms. BAN. That is very well put, and I see the proposal for phased retirement as linked to the proposal for training for managers, managerial succession training.

What we have in many agencies is a senior executive and a top management group ready to age out and not very many people standing behind them, ready to move into those positions.

So phased retirement allows the new person moving in to be in essence mentored by the more senior person before he or she goes out the door, but at the same time, some management training to prepare people to move into the ranks is very important.

The other option, of course, is hiring from the outside, and we have a system that traditionally does not hire very many people at mid-level management or senior management positions from the outside.

Senator VOINOVICH. Well, there seems to be some controversy about the issue—and we have two groups that we are going after—one, we want to keep as many of our good people as possible, and two, we want to recruit “the best and the brightest” both in entry-level jobs and mid-level jobs. But there was some concern about the provision of the bill that would give individuals coming in at mid-management levels additional vacation. Do you want to comment on that?

Ms. BAN. Yes, I do support that. I know that some of the folks yesterday from the unions were uncomfortable with that, and I do not think it is a huge issue, but as somebody who did come into the Federal Government in a mid-level management position, it is a deterrent to know that you can only have a very small vacation period. So it is a tool that I think would help government recruit from the outside. It is not as important, say, as raising the pay cap on the SES, but it is nonetheless one more tool.

I think the streamlined critical pay authority is again not a huge tool—it is limited in the number of positions that are covered, but it is nonetheless an important tool that I support.

Mr. LIGHT. I think there is a general consensus that there is a lot to admire in this legislation, but that we need to make sure that there is a will to recruit. Let us say we give tax-exempt status to loans for Federal employees—the GOFEDS bill, which is a nice bill—but the tax exemption that you can take on a loan that is not given is zero. If we cannot get the administration to make basic investments in training and recruitment, if the administration, be it a Democratic or a Republican administration, focuses on hard outsourcing targets as they have that disincent and send the message that you would be better off looking at another employer, if your recruitment, retention and relocation expenses are never granted, there is no money in the budget to do so without cannibalizing your training, if you come in at the mid-level and you are punished for having made the boundary crossing from private or nonprofit into government by being denied adequate vacation and benefits, it just does not make sense to make the change.

We have got to send a consistent signal both legislatively and administratively that we want talented people to apply, and that is part of what this whole reform effort is about.

Mr. STIER. Senator, to echo what has been said a bit here, from the Partnership's perspective, there clearly are a number of very positive provisions in this bill. Obviously, it is incremental reform, and we are looking forward to working with you and with the Volcker Commission and others to talk about the comprehensive steps in addressing some of the larger problems like the compensation issues that clearly need to be done.

I think it is important to realize that it is a system and not simply respond to individual problems, and I think that in order to do that, we do need to be thinking about how these different pieces play into each other. So on the compensation issues, that clearly relates to performance management, it relates to the issues about poor performers and how you reward top performers as well, and I think we need to be thinking about these things in an integrated fashion.

The specifics in this bill, however, I think offer some important steps. The vacation time that you have raised and asked about I think is a positive step. We have issued a report on mid-career hiring in the government that I think demonstrates how few jobs are actually filled from the outside. Indeed, barely 50 percent of jobs are even advertised at the GS-12 and above level to folks outside the government, and only 13 percent of GS-12 and above jobs are filled from outside the government.

I do not think that is a situation that is good for the current workforce, who have expressed unhappiness with the system as it currently exists, and it is clearly not good for the system as a whole not to be drawing from as broad a range of talent as exists—

Senator VOINOVICH. In other words, you are saying that for some of the top jobs, only 13 percent of them are being filled from the outside.

Mr. STIER. And when you say "top jobs," I am not talking top jobs. I am talking about GS-12 and above. That is essentially a third of the Federal jobs that are available, so approximately half a million jobs that are in the Federal Government that are GS-12 and above.

I think we need to look at a variety of ways of expanding the reach that the Federal Government has, not only at the entry level with young people but with experienced workers. I think, though, that President Harnage and President Kelley raise some important points with respect to this issue. I do not see why it should be a benefit that is offered only to senior management and to SES. We should be looking to expand the ability of the government to reach out to needed people and offer the kind of incentives such as vacation time that are going to be market-based, and that may be for an SES person, it may be for a GS-12 person; it may be for a senior IT person who is not a manager.

I think that really what we need to be looking at is a way of expanding the opportunities that the government has to attract new talent and to retain existing talent.

Senator VOINOVICH. One of the things that was brought up was the critical pay authority that I think some of the Senior Executive folks are concerned about. Are we bringing in high-paid outsiders to avoid the problem with pay compression? Is that the reason why we are doing it—that we have to get this talent, and the pay sched-

ule that we have here is not realistic so we have got to bring them in from the outside at special rates? We tried in the bill to limit that to not too many individuals. I would like you to comment on that. Do you think that we have taken a realistic approach to that, and what do you say to the argument that perhaps this would just be another excuse for us not to face up to the fact that we need to do something about the caps on our senior executives' salaries?

Mr. STIER. Frankly, I think this is in line with the discussion that we started with, with respect to Paul Light's comments, and that is that the incremental change is beneficial, but we cannot lose sight of the fact that what we are talking about here is a series of problems that have to be addressed in the very near term and that we need to be looking toward more comprehensive solutions, but in the meanwhile, let us move on what we can.

On the critical pay authority issue, the IRS, despite some problems, has by and large been a successful model that we need to look to and learn from—but it also teaches us that these things need to be done in concert and as a plan. Critical pay authority to the extent it works in the IRS works because it is being done in conjunction with a lot of other changes to reform the whole system.

Mr. LIGHT. Having looked at the IRS critical pay issue, I think that to say it was done haphazardly is basically a good characterization.

Critical pay authority is very difficult to do well. I think we ought to have critical pay authority. I embraced critical pay authority in the Tax Reform Act in 1997–1998. But it creates a new opportunity for the kind of story about dismantling that undermines public trust, and I think we have got to deal with the pay compression issue.

Why not give critical pay authority for a set period of time in the hope that by the expiration of critical pay authority, we can get the pay compression problem solved in the Senior Executive Service?

Senator VOINOVICH. And would you require that any permission to do that would have to come from OPM?

Mr. LIGHT. If OPM under the current restructuring proposals enhances its ability to respond quickly and considers the agencies its customers, yes.

Ms. BAN. But critical pay authority is really designed for term-limited appointments, for people who are there for not more than 4 years. So it really is not a way around pay compression for the majority of people. It is a quick fix for bringing in a few people who have critical skills that you do not have. It certainly does not address the broader issue of pay compression, which is very serious, and I think you already know that.

Senator VOINOVICH. Yes. The other thing that is very interesting on that issue is that there is a concern among both SEA and Kelley and Harnage that there is a tendency now that any time you need something done, you farm it out. And their feeling is that some of these things should be done in-house. This is another way of looking at this, that if you have critical pay, you bring in some key individuals that you need in your organization to provide leadership and perhaps even training and get it shaped up, and then they leave, as contrasted with I have a problem, I do not have the

money, I do not have the talent, so call some outsource agency to have them take care of it.

I do not think that some people are looking at it in that respect, but it could be part of the answer to just moving anything that they cannot take care of out to a third party.

Mr. LIGHT. The problem being that most of the outsourcing is not motivated, really, by a desire to find somebody who can come in quickly; it is motivated right now by the desire to meet an arbitrary target, which you raised yesterday and the Comptroller raised yesterday.

The outsourcing pressure right now is driven just by a statistical head-count mentality, and I suspect into 2004 and 2008, we will hear stories about how many jobs were converted as evidence that government is somehow smaller.

Senator VOINOVICH. I think that one of the things that was brought out in one of our hearings was by Ms. Stiles, who is with the Department of Defense—it was interesting that she clarified what the administration's attitude was toward that, and I thought it was a very fine explanation, and hopefully, OMB Director Daniels and OPM will look at that and maybe soften it up a little bit, because it really does give the impression that you have just stated, that the emphasis will be on how do we figure out how we can outsource rather than looking at how do we shape our organization to get it to respond to the demands that we have and deal with the transition situation. Outsourcing may be one way of doing that—it is an option—but it should not be the driving factor so that every morning they get up and say, "I have got to figure out how I am going to outsource 'x' percentage of jobs."

I think that is really something that this administration can handle, depending on the messages that they are getting out to their people. But at least on the surface, the appearance is not, I think, conducive to what we are trying to accomplish.

Thank you, Mr. Chairman.

Senator AKAKA. Thank you very much, Senator Voinovich.

I have a question to ask Mr. Stier, but before I do that, I want to ask Dr. Light if he has any comments on categorical rating.

Mr. LIGHT. I have none. I have a comment on political appointees if you are willing to ask the question.

Senator AKAKA. Thank you.

Mr. Stier, the Partnership for Public Service conducted a survey last year which found strong public satisfaction with the Federal Government's response to the events of September 11. However, your findings reveal that this change in public sentiment may not necessarily translate into greater interest in the Federal Government. Why is this the case, and how can we turn today's positive view of government service into tomorrow's recruitment strategies?

Mr. STIER. Mr. Chairman, you are absolutely right about the survey results. Essentially, we found that the American people appreciated government workers more but did not want to be them, and I think that the reasoning is at least twofold. First, as data from Brookings has indicated, we are still at risk now of seeing that confidence in government go down.

There is a window of opportunity that we do need to take advantage of, and in order to do that, we need to do a variety of different things, including what the Subcommittee is contemplating today.

First, we need to create a situation where the Federal Government is actually reaching out and recruiting. By and large, it is not so much that the government does a bad job of recruiting—it does not do any job at all. And indeed, we are engaged in a process right now of a colleges and universities initiative that Senator Voinovich has been very supportive of and helpful in, trying to reconnect college campuses with the Federal Government. Today we have over 150 colleges and universities that have signed onto this initiative in the last 3 or 4 weeks.

So the first thing is in fact to inform the American people about the opportunities that exist in the Federal Government, because what the data shows is that people simply do not know what they can do in the government; they are not aware of the jobs themselves.

Second, we need to reform the hiring process itself. It is one thing to interest folks in government jobs; it is a separate thing to get them actually into the government. They need to know how to get a government job, and the process needs to be transparent, it needs to be simple, and it needs to be quick, and unfortunately, it has none of those characteristics today.

Then, finally—and this goes back to Professor Kelman's point regarding his study—the government jobs need to be supportive of high performers and innovators. When I talked earlier about this being a systemic issue and not simply a set of problems, I think we need to be working on all three levels—the outreach level, the intake level, and the jobs themselves. I think that if we do those three things, and we work on that now, we will in fact take advantage of the window that has been opened from changing attitudes on September 11, and I think we can actually make a very big difference.

Senator AKAKA. Thank you. Dr. Kelman, would you like to comment?

Mr. KELMAN. Yes. I would just like to second what Mr. Stier said with some examples. First, it is absolutely the case that what most inhibits our students from going to work for the Federal Government more than anything else is a perception that the government is too bureaucratic, too hierarchical, too rulebound, and does not emphasize performance and rules enough. That is why, when I said “Do no harm”—some of that pressure that creates bureaucracy in government and creates too many rules, too many check-offs and so forth, frankly comes from Congress and comes from this management by scandal kind of approach that gets the headlines and gets members on the news, but it actually hurts the taxpayer and hurts good government.

So when I try to persuade my students to go to work for the government, the biggest worry they have is what Mike Jung said. So I think we need to keep that in mind. Dr. Light has used the words “Show me the work,” and his surveys show that what young people want out of a job is responsibility, an ability to make a difference, an ability to be in a results-oriented workplace.

Second, on the recruitment side, just to add two anecdotes from our executive sessions—we hope, by the way, Senator, that you will be able to join us at the next one. I know that you have not been able to make it to the last two, but hopefully, you will be able to come to the next one.

Anyway, at the last one, my student, Mike Jung, is looking for a job after he graduates in Columbus, Ohio, because his new bride is a med student there. So he needs to find a job there, and he wanted to look at the Defense Logistics Agency, which has a big facility in Columbus. So he checked out their website, and he said what he was looking for was the website telling me why I would want to work at the Defense Logistics Agency, and what about this would make it an interesting job. The website gave him no clue to that.

He then made a phone call to the Defense Logistics Agency in Columbus and said, “I am about to graduate. Tell me why I should want to come to work for the Defense Logistics Agency.”

And the person on the other end of the phone, as he put it to our group of people, treated him like a person to be processed—started asking him a bunch of questions like, “Are you a Section 11?” and all of this bureaucratese, just to check off some things, and made no effort to say here is why the Defense Logistics Agency is an exciting place for a young person to work.

Another example, again from the last executive session—Tom Tierney, who is the retired CEO of Bain and Company, the consulting organization, said that when he was CEO of the company, he spent 10 percent of his personal time as CEO interviewing college students and business school students and being on campus, because he felt that recruiting young people was part of his job description as CEO. I know the Comptroller General, David Walker, is spending some of his personal time recruiting people to the GAO, and I think that is one of the reasons why GAO is turning around and making a difference. He is probably the only person in the whole Federal Government who is going that route—I think—but I hope there are others.

We do really need to attack these things comprehensively. Legislation cannot do it all, but for example, on some of these issues about senior officials caring about recruiting and having recruiting plans, what kind of workplace you are creating, in my view, that is the kind of constructive oversight that this Subcommittee and this Committee should be engaged in—far more constructive than some of the scandal-mongering.

Senator AKAKA. Dr. Ban, do you wish to add?

Ms. BAN. Yes, if I may add to that briefly—because I think this brings us back to category rating. It has been difficult for managers to go out and recruit in the Federal Government, because when they try to bring those candidates in, they run up against the Rule of Three.

Category rating will make it easier when managers effectively recruit for them to actually get these outstanding candidates considered and be able to hire them. So I see those two as linked.

Mr. KELMAN. I strongly agree.

Senator VOINOVICH. They go out and recruit the candidates, and then tell them, "We want you to come to work for us; now apply, take the test, and we will see you in 6 months."

Mr. KELMAN. And we hope you get on the list of three—or what they do—

Ms. BAN. Exactly.

Mr. KELMAN. They do one of two things, and both of them are very damaging from the perspective of the Federal Government. One is they say, "Apply, and we hope you get on the list of three." The other is they start gaming the system—how can we redo the position description so you can get on the list of three. And what are we doing then? What an awful message. The first message a young person gets from the Federal Government and from his potential employer is "Here is how I am going to game the system so I can get you on this bureaucratic list of three." It is the most destructive, awful message we can give those young people.

Ms. BAN. He is correct.

Senator AKAKA. Let me finally ask Dr. Light if you wish to comment about these questions, but in particular, I would like to go back to what you said and hear any comments you may have on political appointees. [Laughter.]

Mr. LIGHT. I would direct the Subcommittee to the Inspector General Act of 1978 to see whether or not there is embedded in that statute a way of getting a political appointee to take these jobs who is presumed to have a commitment to continuity.

We have been through a lot of travail with the inspectors general over the years. We may be in the midst of a purging of the IGs even as I speak. But the presumption has always been in favor of that position which is politically appointed, it is confirmed on a sequential referral so that the authorizing committee does the first review, and then the Governmental Affairs Committee does the sequential, which gives the Governmental Affairs Committee an opportunity to really weigh in on the issues that the Senator from Ohio cares about. And the presumption in that statute is for continuity, and generally speaking, it has worked pretty well. That was my point about the political appointees.

I have been against the proliferation of political layering for the better part of 20 years, but every once in a while, you see an opportunity where, if you really want these folks to be sitting at the table, I am not sure how you get them there unless they come through a process where they have the Senate advice and consent; I am just not sure about it.

Mr. KELMAN. May I just comment briefly?

Senator AKAKA. Yes, Dr. Kelman.

Mr. KELMAN. One way to get them to the table is—I think—again through oversight and, during the confirmation process for Cabinet Secretaries or other political appointees, to emphasize the importance that you as Congress see in working with your senior career appointees. We should not give up—I think this is a defeatist attitude of saying there is no way that a senior SES person is ever going to "be at the table" with political appointees. That is awful. What about all the other SESers—are we in effect saying to them, "You are mere SES, and you are never going to be at the table?"

I will say that when I served as a political appointee in the Clinton Administration, the senior procurement people in the Federal Government were all career people. They were at my table every day, and I very much valued—extraordinarily valued—their input.

Yes, there are some or many political appointees who have this attitude, but Paul, what are we saying to all the other SESers—“You are never going to be at the table?” We are going to give up on that?

Mr. LIGHT. I think that what you are seeing here is the difference between an Article 1 person and an Article 2 person. I think that may be it—that if you bring them through the Senate, that increases the prestige attached to the position. But I can see how you could bring a careerist into it. I just feel that the human resource function has been so denigrated and disparaged over the past two decades, humiliated and eviscerated, that we need to do something to bring it up to grade and to say to the people involved in human capital work “You are important, your work is important,” and the appointments issue is a small thing. The other pieces of the legislation are certainly much more important than whether this is career or political.

Senator AKAKA. Thank you very much for your responses. I have no further questions, although I may have some for the record.

I would like to ask my colleague, Senator Voinovich, do you have any additional questions?

Senator VOINOVICH. Yes. You have all been following this legislation and the managers’ amendment and so forth. Are there any other controversial issues that I may have forgotten to bring up in my questions that you would like to get information on the table that would be helpful to me and to Senator Akaka?

Ms. BAN. I would like to raise two. We have been talking about hiring and focusing on category rating. There is also a section in the bill that talks about noncompetitive hiring, and I am concerned about that section. It sets forth four criteria for when agencies can hire noncompetitively. I am concerned about how broad they are. They are: Severe shortage of candidates, need for expedited hiring, unique positions with unique hiring, and positions that are historically hard to fill.

I have not seen final language of this section of the bill in the combined bill, but if we are still committed to a merit system, we have to look at where we draw the line and how appropriate it is to be quite this broad in allowing agencies to do noncompetitive hiring. I do not know a single manager who would not say that his or her position needs to be filled right now. So I am concerned about how many positions would not fall under one of these four categories and whether we need to be a little bit more constrained.

I also want to agree with Ms. Kelley from the NTEU about reducing the notice period for poor performers from 30 days to 15 days. We are under a constitutional requirement of due process. If you go back to the history of the Civil Service Reform Act and the original proposals that were being developed before that legislation was finalized, there were similar proposals to shorten the notice period and simplify the process for firing that fell out of the final legislation because people were not convinced that the courts would accept this.

I think we have a question there about whether we meet our constitutional requirement for due process if we shorten that notice period. I frankly think that is not where the problem lie in dealing with poor performers. That is a very trivial change. The big delays are in how we prepare the case and then, after we take action, what the appeals process will be.

I think this is one where I would not fight with the unions over it; I do not think it is worth it.

Senator VOINOVICH. Are there any other comments about any provisions that you think might be controversial that you would like to get on the record?

Mr. KELMAN. Just two. One, I would endorse the buyout authority for restructuring without FTEs going down. And we were talking earlier about outsourcing; I think one of the benefits of this provision is that it more levels the playing field between the government and an outsourcer, because one of the reasons why agencies sometimes outsource is that they feel they do not have enough flexibility. If they at one time had hired a COBOL programmer, they are stuck with a COBOL programmer even if nobody is using COBOL anymore.

Senator VOINOVICH. This is the provision on the early retirement, that is a good idea.

Mr. KELMAN. Yes, to allow it to be done—to do buyouts for restructuring the agency. That is to say, you can do a buyout because there are positions or job skills that are no longer needed at the agency. Under current law, you can get rid of those, but you lose the FTE, and therefore, the agencies are more skeptical about doing them.

I would say allow the buyout authority for restructuring without losing the FTE. That will give agencies more flexibility to change their skill mixes as demands on them change, and it is one of the ways of leveling the playing field in terms of outsourcing.

I would also urge—and this is not in the bill, but I urge that it be added to the bill—a provision to expand the Outstanding Scholars Program authority from the GS-7 to the GS-9 level. That would basically allow us to use the Outstanding Scholars hiring authority which already exists to hire students who are graduates of master's programs and not just undergraduates. Master's programs in public administration, public policy, public health, international affairs are not now covered by Outstanding Scholar, and if you extend it to GS-9, it would allow them to be covered.

Senator VOINOVICH. I just have one other question that I would like you to respond to, and it does not deal with the bill. There was a lot of talk about linking pay to performance. I think it was David Walker who said that 80 percent of Federal employees just get an automatic pay increase, and that is basically the way that people are compensated. It occurred to me that, first of all, if you have meager pay increases which are less than cost-of-living, there really is not any flexibility to do that kind of evaluation. A manager would just say, "I have 1 percent," or whatever it is, and it is a little bit less than cost-of-living, and why bother, because they do not have any flexibility within that framework. I understand that if there is a cost-of-living adjustment, everybody gets it right across the board. The recommended cost-of-living adjustment this year is

2.6 percent for civilians. So you start with that, and if that is all you have, well, there is nothing left to talk about performance-based increases. I do not know how they do it.

My thought would be that perhaps we look at granting a pay increase and then, above that, providing money to an agency so that—let us say it is 2.6 percent, and we would go to 3.0 percent, and say that the four-tenths of 1 percent is to be used to be linked to performance so that there is some money there that could be used for rewarding top performers or paying for bonuses that agencies do not have the money to pay for now.

I have talked to State Department employees who regularly relied upon bonuses to subsidize their pay because they were locked into or could not get more money than “x”—and then the money is not there for the bonuses, so they get nothing.

I just wonder what you would think about possibly looking at something like that to see if it would help stimulate some of this performance evaluation that should be going on right now that is not going on because there is no reason to do it.

Mr. STIER. Senator, I would suggest that clearly, there is a great need for greater investment in the human component of our government, and we need more resources devoted to providing for the existing workforce and recruiting new talent.

I would also, though, comment that rather than simply increasing a pool of money for potential compensation, we need to also be looking at the performance appraisal system itself, because it is not simply the case that we have in place right now a management system that allows for identifying high performers and therefore supporting them through additional resources, but clearly in the interim, I think we need to be looking at ways to create a better system and putting in more resources both for compensation as well as paying for the authorities that currently exist.

Dr. Light’s comment about the loan forgiveness authority is quite apt. The government has that authority now. Very few agencies are using it. We have supported a bill that would make it a more effective measure, but the bottom line is there has to be money for the agencies to actually have in order to be able to make it a useful authority.

Senator VOINOVICH. Dr. Light.

Mr. LIGHT. You know, there is really no more controversial issue than pay and performance, and put together, you are talking about nuclear-quality debate. The current performance appraisal system as you know is hyperinflated in part because Congress has restricted agencies from using a quota or curve system for allocating ratings, so everybody is rated above outstanding or above average, and we are well on the way to a government that is outstanding.

I would not take it on in this particular bill, Senator.

Senator VOINOVICH. No, I am not talking about taking it on in this bill, but I am talking about looking at the broad picture of how do we deal with this situation. And I guess even more important than that is the urgency to the security of the United States of America to really get at this issue of human capital and the resources that we need to have the “best and brightest” people stay in government and be attracted to government.

Somehow we have to get that message across today. There seems to be a feeling—and we have had hearings in the Governmental Affairs Committee with Senator Lieberman—that, for example, we ought to revisit the issue of airport security. The amount of equipment and people that we are going to have to put on the payroll is just astronomical. If I were Osama bin Laden today and I looked around the United States and could see what he has wrought, he would have to be, if he is alive, as happy as anything, because he really has changed this country in terms of our attitudes. And also, we are about to spend ourselves into oblivion to try to secure the homeland.

We have to get across that if we really want to secure the homeland, the No. 1 priority should be investing in human capital. That is the best way. And I am really worried that we are only going to invest in new technology and gizmos while neglecting the most important aspect of this issue, and that is people. We talked about this yesterday, September 11—there is another committee looking at why that happened. But my brain tells me that maybe Federal employees did not have enough people; they had materials in front of them that people could not read; they did not have people who spoke Arabic. What a ridiculous thing. After this happened, we asked for volunteers in the country—can anybody speak Farsi, Arabic? We do not have the people we need. This is incredible, and it is a reflection on the part of Congress that we have nobody who lobbies for people. Everybody lobbies for F-22s, for aircraft carriers, for submarines, and for all kinds of things, but nobody is out there hustling and promoting people.

It is interesting—and you brought it up—Jack Welch—at GE and at all of the top companies in this country, the No. 1 issue with them is people.

Ms. BAN. I want to agree with your general point. The Hart-Rudman Commission made this point long before September 11, that we could not address the national security challenges in the country without addressing the problems with the civil service system and with hiring.

However, let me take the unpopular position of arguing against pay for performance. It sounds great. It is one of those things that has what we call “face validity”—it makes sense that if you pay people and reward them, they will perform better. However, there is virtually no research over the past 25 years that supports this actually making a positive difference. It has more negative effect on motivation than it has positive effects.

The amounts have been very small, and you would have to budget a lot more than I think you can to give significant rewards that could make a difference—and it does not work. The bottom line is that it just has not had the effect we wanted it to. Even though we think it should, it does not work. So I would not go there.

Senator VOINOVICH. Dr. Ban, with all due respect, when I was mayor and when I was governor, it worked. And I am talking about my top people, believe me. First of all, it lets them know that you care about what they are doing, and you pat some of them on the back, and others, you kind of give a little bit of a nudge. And one way that you get their attention is to let them know that, “This time around, I am sorry, your performance is not what it should

be.” It made a big difference, and I was 10 years as mayor and 8 years as governor, and I fought to get that kind of authority when I was mayor of the city; we did not have it, and I got it.

So I am not saying that it will work straight across the board, but I can tell you that in top management positions, at least from my experience, it has made a great deal of difference.

Mr. KELMAN. Senator, if I could come in on this dialogue for a second, I think definitely the sentiment behind pay for performance, which is let us focus on results in the work place, is a very good one.

I think it is fair to say that the private sector evidence on pay for performance in the private sector is much—I do not want to say it does not work anywhere—but I think Dr. Ban is right that it is much more mixed than a lot of us would think.

I think that if you are going to design the pay for performance systems for the middle- and lower-level people, you have to be careful. One of the pieces of evidence is that you probably want to give team rewards rather than individual rewards, because if you give too many individual rewards, people fight against each other rather than collaborating in the workplace.

I guess where I would go—and I will give airline security as an example—maybe the first places to try to do real pay for performance are those agencies that have good, intelligent goals under the Government Performance and Results Act of delivering things. For example, on airport security workers, we could have a performance goal in there about what percentage of time does the “mystery shopper” who tries to get in not do it. What I would suggest, taking your example, is that we have genuine performance goals for those teams at the airport, and if the team meets the goal, the team should be rewarded. Again, the sentiment behind this, I am 100 percent in agreement with. It is not as straightforward or easy—Ford Motor Company last year eliminated a pay for performance system that they had set up 2 or 3 years ago because it led to too much fighting among individual employees, and they were sabotaging each other so they could be relatively one higher than another. It did not help the organization.

It can work, but it should be, I think, in the first instance limited to where you have performance goals for the organization under the Government Performance and Results Act that make sense, and I would be inclined toward tying it to teams rather than individuals. But under those circumstances, I think we should be experimenting with some of the ideas that you suggest.

Senator VOINOVICH. My response to that is that that fits in with quality management.

Mr. KELMAN. Absolutely.

Ms. BAN. Yes.

Senator VOINOVICH. One of the things that we did when we implemented our quality management initiative was to reward teams of individuals. We had a program where if someone came up with an idea that would save the State money, we would give out checks to individuals for \$5,000. What we ended up doing at the end was rewarding teams of individuals because of the fact that they had come up with this idea and made it happen. That meant a lot more to them, because there was some concern when one individual

ended up with a \$5,000 or \$10,000 check for a good idea, and a lot of them said, "Well, gee, he would not have had that if I had not talked to him," and "How did you figure that one out?"

So that is a good point.

Mr. KELMAN. Yes, of course, you had one of the outstanding TQM programs in the public sector in Ohio, and I think you are absolutely right. One of the principles of TQM is to reward teams, not individuals; you do not want to have the individuals fighting with each other.

Mr. STIER. And again, I think the point is to look at performance management and not necessarily pay for performance, and to look at it in the broader context.

Ms. BAN. I would agree.

Mr. STIER. And this is something that is not easy but is I think well worth investing in. One size does not fit all. We already have examples inside the government where there are mechanisms that are in place that are rewarding the high performers or productivity—PT&O is an example of that where they have been quite successful on the trademark side in terms of rewarding attorneys who produce a certain number of finished applications.

Senator AKAKA. Thank you very much. I wish to thank you all for being with us today.

Over the past 2 days, we have had extremely engaging and productive discussions. The bills we reviewed are important because their introduction begins the dialogue on how to find legislative solutions to make sure the government has the right people with the right skills in the right place at the right time.

Again, I wish to thank all of our witnesses for taking part in this important hearing. You may be assured that your contributions are appreciated.

Finally, I want to thank Senator Voinovich. Thank you for being here with me to participate in this discussion.

Senator Voinovich has brought these bills to fruition. I look forward to working with you to educate our colleagues on the need to address civil service reform. Thank you again for your commitment to this goal, Senator.

Again I want to say thank you, and if there are no further comments—

Senator VOINOVICH. I just want to thank you, Mr. Chairman. When I had hearings on this in the last couple of years, there was one individual who was always there, and that was Senator Akaka, and I was very impressed with that and will never forget it. I really appreciate the fact that he is taking the time to continue this effort on a bipartisan basis to make a difference for our country.

I thank you, Senator.

Senator AKAKA. Thank you very much, and remember—human capital.

We stand adjourned.

[Whereupon, at 11:50 a.m., the Subcommittee was adjourned.]

APPENDIX

STATEMENT OF
KAY COLES JAMES
DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

before the

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION
AND FEDERAL SERVICES
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

on

FEDERAL EMPLOYEE MANAGEMENT FLEXIBILITIES

MARCH 18, 2002

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

THANK YOU FOR INVITING ME TO THIS HEARING TO DISCUSS WITH YOU THREE
BILLS THAT WOULD GREATLY HELP FEDERAL AGENCIES APPLY INNOVATIVE
SOLUTIONS TO THEIR HUMAN RESOURCES (HR) MANAGEMENT CHALLENGES. I
APPRECIATE THE WORK OF SENATORS LIEBERMAN, AKAKA, THOMPSON, AND
VOINOVICH, WHO HAVE BEEN KEY LEADERS OF THIS EFFORT. TWO OF THESE
BILLS, S. 1612 AND S. 1639, CONTAIN PROPOSALS ORIGINALLY DEVELOPED BY
THE ADMINISTRATION.

I APPEAR TO TESTIFY HERE TODAY FOR THE FIRST TIME SINCE MY
CONFIRMATION HEARING LAST JUNE. IMMEDIATELY AFTER BEING SWORN IN, I
RE-ORIENTED THE FOCUS OF THE AGENCY. OPM BEGAN TO PROVIDE TAILORED

ASSISTANCE TO AGENCIES GOVERNMENT-WIDE THROUGH "STRIKE FORCES" STAFFED BY CAREER PROFESSIONALS EQUIPPED WITH RELEVANT EXPERTISE. SINCE SEPTEMBER 11TH, THE WORLD HAS CHANGED – AND OPM HAS ACCELERATED THE PACE OF OUR ACTIVITIES TO SUPPORT THE GROWING HUMAN CAPITAL DEMANDS ACROSS GOVERNMENT. CONSISTENT WITH THE PLEDGE I MADE BEFORE YOU IN JUNE, WE ARE WORKING TO PLACE TOOLS IN THE HANDS OF MANAGERS RESPONSIBLE FOR RESHAPING THEIR WORKFORCES TO MEET CURRENT AND EMERGING NEEDS.

I AM VERY ENCOURAGED BY THE ATTENTION BEING PAID TO THIS PENDING LEGISLATION. THIS COMMITTEE HAS A LONG HISTORY OF WORKING IN A BIPARTISAN MANNER TO ENACT LEGISLATION IMPROVING THE OPERATION OF GOVERNMENT. INDEED, IT WAS THIS COMMITTEE WHICH OVERSAW THE ENACTMENT OF THE GOVERNMENT PERFORMANCE AND RESULTS ACT AND THE CLINGER-COHEN PROCUREMENT REFORMS, TO NAME A FEW OF ITS SIGNIFICANT LEGISLATIVE ACHIEVEMENTS. NOW, THE COMMITTEE HAS THE OPPORTUNITY TO MOVE FORWARD ON REFORMS INTENDED TO IMPROVE THE WAY WE MANAGE THE FEDERAL WORKFORCE.

AS YOU KNOW, THE PRESIDENT HAS A BOLD, FOCUSED MANAGEMENT AGENDA DESIGNED TO DELIVER CITIZEN-CENTERED, RESULTS-ORIENTED, MARKET-DRIVEN GOVERNMENT TO THE AMERICAN PEOPLE. THE EXECUTIVE BRANCH

MANAGEMENT SCORECARDS HOLD AGENCIES ACCOUNTABLE FOR PROGRESS ON THAT AGENDA.

THE FIRST GOVERNMENT-WIDE INITIATIVE IN THE *PRESIDENT'S MANAGEMENT AGENDA* IS THE STRATEGIC MANAGEMENT OF HUMAN CAPITAL. WORKING CLOSELY WITH OMB, OPM IS LEADING AGENCIES IN IMPLEMENTING THIS INITIATIVE. WE HAVE DEVELOPED A NUMBER OF TOOLS TO HELP AGENCIES. OPM'S HUMAN CAPITAL SCORECARD COMPLEMENTS THE LARGER EXECUTIVE BRANCH MANAGEMENT SCORECARD. IT PROVIDES A SET OF GOALS AND MEASURES FOR EFFECTIVE HUMAN RESOURCES MANAGEMENT. OUR HUMAN RESOURCES MANAGEMENT ACCOUNTABILITY STANDARDS ARE GUIDELINES FOR AGENCIES TO USE IN DEVELOPING THEIR INTERNAL HR ACCOUNTABILITY SYSTEMS. SHORTLY, WE WILL BE ADDING VALUABLE METRICS IN THE FORM OF A GOVERNMENT-WIDE SURVEY ON HUMAN CAPITAL. THIS SURVEY WILL PROVIDE A UNIFORM MEASURE OF AGENCIES' PERFORMANCE IN SUPPORT OF THE HUMAN CAPITAL INITIATIVE. THE SURVEY ALSO WILL PROVIDE AGENCIES WITH SPECIFIC INFORMATION ABOUT THEIR HUMAN CAPITAL ACTION PLANNING.

WE ARE WORKING DIRECTLY WITH AGENCIES TO ENSURE THAT THEY STRATEGICALLY USE THE BROAD RANGE OF EXISTING HUMAN RESOURCES MANAGEMENT TOOLS TO RECRUIT, RETAIN, AND MANAGE A HIGH-PERFORMING

WORKFORCE. OPM HAS PROACTIVELY ASSEMBLED AND SENT OUT SPECIAL "STRIKE FORCE" TEAMS OF HR PROFESSIONALS FROM WITHIN OPM TO PROVIDE EXPERT ADVICE AS NEEDED.

AN EXAMPLE IS THE NEW TRANSPORTATION SECURITY AGENCY. OPM IS PROVIDING EXPEDITED SECURITY CLEARANCES AND WORKING INTERNALLY WITH TRANSPORTATION "GO TEAMS". WE ALSO PROVIDED EXPERTISE TO DEPARTMENT OF TREASURY REGARDING ORGANIZATIONAL STRUCTURE TECHNICAL ADVICE AND ASSISTANCE REGARDING THE COMPETENCY SCREENING MECHANISMS FOR FEDERAL SECURITY SCREENING PERSONNEL. OVER THE PAST TWO MONTHS, OPM AND OMB HAVE WORKED IN PARTNERSHIP TO TRAIN OVER 500 SENIOR MANAGERS ON THE MANY FLEXIBILITIES THAT ALREADY EXIST. THE PRESIDENT HAS A PROPOSAL TO REFINE THESE FLEXIBILITIES TO MAKE THEM EVEN MORE USEFUL AND PROVIDE EVEN MORE TOOLS TO HELP MANAGERS RECRUIT, HIRE, TRAIN AND RETAIN THE HIGH-QUALITY WORKFORCE THEY NEED TO CARRY OUT THEIR MISSIONS AND PRODUCE RESULTS FOR THE AMERICAN PEOPLE.

THE PROPOSALS OUTLINED IN THE PRESIDENT'S MANAGEMENT AGENDA REPRESENT IMPROVEMENTS. AND CONGRESS CAN EXPECT FURTHER PROPOSALS FROM THE ADMINISTRATION AS WE PROCEED IN IDENTIFYING

WAYS TO IMPROVE THE OPERATION OF GOVERNMENT AND THE MANAGEMENT OF OUR WORKFORCE. BUT THE EVENTS OF SEPTEMBER 11 DEMONSTRATED THAT THE FEDERAL GOVERNMENT MUST HAVE EFFECTIVE MANAGEMENT TOOLS IN PLACE TO EFFECTIVELY RESPOND TO THREATS TO OUR NATIONAL SECURITY. THESE PROPOSALS WOULD ENHANCE GOVERNMENT OPERATIONS AND STRENGTHEN OUR ABILITY TO SUCCESSFULLY WAGE THE WAR AGAINST TERRORISM.

RATHER THAN PROVIDING A DETAILED COMPARISON OF THE BILLS, I THINK IT WOULD BE MORE USEFUL FOR ME TO OUTLINE THE SPECIFIC FEDERAL EMPLOYEE MANAGEMENT REFORMS THAT THE ADMINISTRATION BELIEVES ARE ESSENTIAL TO MOVE THE GOVERNMENT FORWARD. THESE ARE (1) RESTRUCTURING ASSISTANCE FOR AGENCIES THROUGH A PERMANENT GOVERNMENT-WIDE "BUYOUT" AUTHORITY AND CHANGES IN THE VOLUNTARY EARLY RETIREMENT AUTHORITY FOR FEDERAL EMPLOYEES; (2) RECRUITMENT AND RETENTION INCENTIVES; (3) NEW HIRING FLEXIBILITIES; (4) MEASURES TO PROMOTE RESULTS-ORIENTED PERFORMANCE EVALUATION AND COMPENSATION FOR SENIOR EXECUTIVES; AND (5) A SIMPLIFIED PROCESS FOR LAUNCHING PERSONNEL MANAGEMENT DEMONSTRATION PROJECTS AND AN AUTHORITY FOR AGENCIES TO IMPLEMENT PERMANENT ALTERNATIVE PERSONNEL SYSTEMS. ALL OF THESE ELEMENTS ARE INCLUDED IN S. 1639 AND S. 1612, AND SOME OF THEM ALSO APPEAR IN S. 1603. I WOULD LIKE TO

DESCRIBE BRIEFLY WHAT EACH OF THESE COMPONENTS INCLUDES AND WHY THE ADMINISTRATION BELIEVES THEY ARE SO IMPORTANT.

“BUYOUTS” AND VOLUNTARY EARLY RETIREMENT AUTHORITIES

VOLUNTARY SEPARATION INCENTIVES, OTHERWISE KNOWN AS “BUYOUTS,” HAVE BEEN AVAILABLE FOR LIMITED PERIODS SINCE 1992. MOST EARLIER AUTHORITIES HAVE BEEN LIMITED TO PARTICULAR AGENCIES AND FOR DOWNSIZING AND RESTRUCTURING PURPOSES. “BUYOUTS” ARE MUCH MORE COST-EFFECTIVE THAN REDUCTIONS IN FORCE, AND THEY REDUCE DISRUPTION CAUSED BY RESTRUCTURING.

OUR PROPOSAL WOULD CREATE A PERMANENT GOVERNMENT-WIDE AUTHORITY FOR “BUYOUTS” THAT WOULD INCLUDE ALL OF THE FEATURES THAT HAVE MADE “BUYOUTS” USEFUL FOR AGENCIES, ATTRACTIVE TO EMPLOYEES, AND A GOOD DEAL FOR TAXPAYERS. THESE FEATURES INCLUDE (1) A REQUIREMENT THAT AN AGENCY SUBMIT A DETAILED PLAN TO THE OFFICE OF MANAGEMENT AND BUDGET DESCRIBING HOW “BUYOUTS” WILL BE USED TO STREAMLINE THE AGENCY; (2) A REDUCTION IN AN AGENCY’S FULL-TIME EQUIVALENT EMPLOYMENT LEVEL BY ONE POSITION FOR EACH EMPLOYEE WHO RECEIVES A “BUYOUT” AND A WAIVER OF THIS REQUIREMENT IF BUYOUTS WILL BE USED FOR RESTRUCTURING OR RESHAPING; AND (3) A

REQUIREMENT THAT EACH "BUYOUT" RECIPIENT WHO RETURNS TO FEDERAL EMPLOYMENT WITHIN FIVE YEARS MUST REPAY THE ENTIRE AMOUNT OF THE "BUYOUT" BEFORE COMING BACK TO WORK. IN ADDITION, OUR PROPOSAL WOULD ALLOW AGENCIES TO OFFER "BUYOUTS" TO EMPLOYEES ON THE BASIS OF SKILLS, KNOWLEDGE, OR OTHER SIMILAR JOB-RELATED FACTORS. WE BELIEVE THIS WOULD MAKE THE AUTHORITY MORE USEFUL TO AGENCIES THAT ARE RESHAPING THEIR WORKFORCE TO ADDRESS CHANGING MISSION REQUIREMENTS AND BE MORE EFFICIENT OR EFFECTIVE.

SIMILARLY, WE ARE PROPOSING TO ENABLE AN AGENCY TO USE THE VOLUNTARY EARLY RETIREMENT AUTHORITY TO RESHAPE THE AGENCY'S WORKFORCE WHEN THE AGENCY FINDS THAT THE MIX OF SKILLS AMONG ITS EMPLOYEES IS NO LONGER THE MOST EFFECTIVE ONE FOR CARRYING OUT THE AGENCY'S MISSION. WE WOULD ALLOW A VOLUNTARY EARLY RETIREMENT AUTHORITY TO BE TRIGGERED EVEN IF THE AGENCY HAD NOT YET DETERMINED THAT IT WOULD HAVE TO REDUCE ITS WORKFORCE. OUR OBJECTIVE SHOULD BE TO GIVE AGENCIES MORE FLEXIBILITY TO ADDRESS SKILLS IMBALANCES AT AN EARLIER STAGE INSTEAD OF WAITING UNTIL INVOLUNTARY SEPARATIONS BECOME INEVITABLE.

RECRUITMENT AND RETENTION INCENTIVES

WE ARE PROPOSING TO ENHANCE THE CURRENT AUTHORITIES FOR RECRUITMENT, RELOCATION, AND RETENTION BONUSES. OUR PROPOSAL WOULD ALLOW AGENCIES TO PAY LARGER RECRUITMENT AND RELOCATION BONUSES AND TO PAY THEM IN INSTALLMENTS. IN ADDITION, WE WOULD AUTHORIZE MORE FLEXIBLE INSTALLMENT OPTIONS FOR PAYING RETENTION BONUSES IN ORDER TO STRENGTHEN THEIR EFFECT ON RETENTION. OUR PROPOSAL ALSO INCLUDES OTHER OPTIONS THAT ARE DESIGNED TO EXPAND THE CIRCUMSTANCES IN WHICH RECRUITMENT, RELOCATION, AND RETENTION BONUSES MAY BE PAID AND TO ENABLE AGENCIES TO MAKE THESE PAYMENTS MORE STRATEGICALLY TO AMPLIFY THEIR DESIRED EFFECT. WE BELIEVE THESE INNOVATIONS WILL HELP FEDERAL AGENCIES BE MORE COMPETITIVE IN RECRUITING AND RETAINING THE KIND OF WORKFORCE THEY WILL NEED IN THE 21ST CENTURY.

OUR PROPOSAL ALSO INCLUDES SEVERAL OTHER RECRUITMENT AND RETENTION INCENTIVES. ONE WOULD ALLOW AGENCIES TO PAY FOR ACADEMIC DEGREE TRAINING IN CERTAIN CIRCUMSTANCES, WHILE ANOTHER WOULD CORRECT CERTAIN UNFORESEEN PAY ADMINISTRATION ANOMALIES RELATING TO SPECIAL SALARY RATES. THESE ANOMALIES HAVE RESULTED LARGELY FROM THE INTRODUCTION OF LOCALITY PAY UNDER THE GENERAL SCHEDULE. THE CORRECTIONS WE HAVE DEVELOPED ARE INTENDED TO IMPROVE THE EFFECTIVENESS OF THE SPECIAL SALARY RATES PROGRAM AS A

RECRUITMENT AND RETENTION TOOL, WHILE RESTORING CONFIDENCE IN THE FAIRNESS OF INDIVIDUAL PAY ADMINISTRATION DETERMINATIONS FOR EMPLOYEES WHO RECEIVE SPECIAL SALARY RATES.

OUR PROPOSAL ALSO WOULD SIMPLIFY AND RATIONALIZE THE COMPUTATION OF RETIREMENT BENEFITS INVOLVING PART-TIME SERVICE TO REMOVE AN UNINTENDED ADVERSE EFFECT ON EMPLOYEES WHO PERFORM PART-TIME SERVICE AT THE END OF THEIR CAREERS. THIS CORRECTION WOULD ELIMINATE A DISINCENTIVE FOR EMPLOYEES NEARING THE END OF THEIR CAREERS WHO WOULD LIKE TO PHASE INTO RETIREMENT BY SHIFTING TO PART-TIME SCHEDULES.

NEW HIRING FLEXIBILITIES

OUR PROPOSAL WOULD CREATE NEW HIRING FLEXIBILITIES TO ENABLE AGENCIES TO MEET SPECIAL HIRING NEEDS MORE EFFICIENTLY. S. 1603 CONTAINS SIMILAR PROVISIONS, AND MY STAFF HAS BEEN WORKING VERY CLOSELY WITH CONGRESSIONAL STAFF TO SORT OUT THE DIFFERENCES BETWEEN S. 1603 AND THE OTHER BILLS ON THESE ISSUES.

I WANT TO MAKE IT PERFECTLY CLEAR THAT THE ADMINISTRATION'S SUPPORT FOR VETERANS' PREFERENCE HAS NOT ABATED IN ANY WAY. THIS

ADMINISTRATION PLACES GREAT IMPORTANCE ON VETERANS' EMPLOYMENT ISSUES — IN PARTICULAR, ENSURING THAT VETERANS RECEIVE THE EMPLOYMENT PREFERENCES THEY HAVE EARNED. THE VETERANS' PREFERENCE LAWS HAVE LONG BEEN A CORNERSTONE OF THE CIVIL SERVICE, AND OPM HAS BEEN IN THE FOREFRONT OF EFFORTS TO PRESERVE AND PROTECT VETERANS' PREFERENCE IN FEDERAL EMPLOYMENT. WE SHARE THE VIEW HELD BY VETERANS' SERVICE ORGANIZATIONS THAT THE NATION OWES A DEBT OF GRATITUDE TO ITS VETERANS. VETERANS' PREFERENCE PROVIDES A MEASURE OF COMPENSATION FOR THOSE BRAVE YOUNG MEN AND WOMEN WHO LEFT THEIR FAMILIES, HOME, AND HEARTH TO ANSWER THE NATION'S CALL TO ARMS.

THE SENTIMENT OF THIS PRESIDENT AND THIS DIRECTOR TOWARDS VETERANS' PREFERENCE WAS ALREADY ARTICULATED BY **PRESIDENT FRANKLIN ROOSEVELT** IN A LETTER ENDORSING VETERANS' PREFERENCE WHEN THE BILL ESTABLISHING THE PREFERENCE WAS TRANSMITTED TO THE HOUSE OF REPRESENTATIVES:

I BELIEVE THAT THE FEDERAL GOVERNMENT, FUNCTIONING IN ITS CAPACITY AS AN EMPLOYER, SHOULD TAKE THE LEAD IN ASSURING THOSE WHO ARE IN THE ARMED FORCES THAT, WHEN THEY RETURN, SPECIAL CONSIDERATION WILL BE GIVEN TO THEM IN THEIR EFFORTS

TO OBTAIN EMPLOYMENT. IT IS ABSOLUTELY IMPOSSIBLE TO TAKE MILLIONS OF OUR YOUNG MEN OUT OF THEIR NORMAL PURSUITS FOR THE PURPOSE OF FIGHTING TO PRESERVE THE NATION, AND THEN EXPECT THEM TO RESUME THEIR NORMAL ACTIVITIES WITHOUT HAVING ANY SPECIAL CONSIDERATION SHOWN TO THEM.

THAT SENTIMENT ENDURES TO THIS DAY AND NOW EXTENDS TO YOUNG WOMEN AS WELL.

THE FIRST OF THE HIRING FLEXIBILITIES WE ARE PROPOSING IS AUTHORITY TO HIRE CANDIDATES FOR CERTAIN POSITIONS QUICKLY AND DIRECTLY. THE NEW AUTHORITY WE ARE PROPOSING WOULD APPLY TO POSITIONS FOR WHICH THERE IS A SHORTAGE OF CANDIDATES OR A CRITICAL HIRING NEED, AS DETERMINED UNDER OPM REGULATIONS.

THE SECOND HIRING FLEXIBILITY WE ARE PROPOSING INVOLVES ALTERNATIVE RANKING AND SELECTION PROCEDURES. THESE ALTERNATIVE PROCEDURES HAVE BEEN TESTED EXTENSIVELY IN THE U.S. DEPARTMENT OF AGRICULTURE, WHERE CONGRESS AUTHORIZED THEM PERMANENTLY IN 1998. AN AGENCY USING THESE PROCEDURES CAN DIVIDE QUALIFIED CANDIDATES INTO TWO OR MORE QUALITY

CATEGORIES, INSTEAD OF ASSIGNING NUMERICAL RATINGS TO INDIVIDUAL APPLICANTS, AS IS CURRENTLY REQUIRED. THE APPOINTING OFFICIAL MAY SELECT ANY APPLICANT IN THE HIGHEST QUALITY GROUPING. WITHIN EACH QUALITY GROUPING, THOSE ELIGIBLE FOR VETERANS PREFERENCE MUST BE LISTED AHEAD OF OTHER CANDIDATES. IN A "CATEGORICAL RANKING" PROCESS, THE APPOINTING OFFICIAL HAS NO MORE AUTHORITY TO PASS OVER A PREFERENCE ELIGIBLE VETERAN THAN HE OR SHE DOES UNDER CURRENT LAW. IN THIS WAY, THESE ALTERNATIVE RANKING PROCEDURES ALLOW A HIRING AGENCY MORE FLEXIBILITY THAN DOES THE CURRENT SYSTEM, WHILE STILL PROTECTING VETERANS PREFERENCE.

RESULTS-ORIENTED PERFORMANCE MANAGEMENT AND COMPENSATION FOR SENIOR EXECUTIVES

WE BELIEVE THE CHANGES WE ARE PROPOSING WITH RESPECT TO SENIOR EXECUTIVES WILL STRENGTHEN THE LINKS BETWEEN THEIR PERFORMANCE AND THEIR PAY AND AWARDS. THIS PORTION OF OUR PROPOSAL WOULD AMEND AN AGGREGATE PAY LIMITATION THAT PREVENTS SENIOR EXECUTIVES FROM RECEIVING SOME AWARD PAYMENTS IN A TIMELY WAY. THE CHANGE WE ARE PROPOSING IS NOT A

PAY INCREASE FOR SENIOR EXECUTIVES; IT MERELY WOULD ENABLE SENIOR EXECUTIVES TO RECEIVE PERFORMANCE AWARDS AT THE TIME THEY ARE AWARDED INSTEAD OF HAVING THEM DEFERRED.

THE ADMINISTRATION'S PROPOSAL ALSO WOULD REPEAL PROVISIONS THAT REQUIRE CAREER MEMBERS OF THE SENIOR EXECUTIVE SERVICE TO BE RECERTIFIED EVERY THREE YEARS, IN ADDITION TO THEIR ANNUAL PERFORMANCE APPRAISALS. ALL OF OUR EVALUATIONS OF RECERTIFICATION HAVE CONVINCED US THAT THIS PROCESS HAS BEEN REDUNDANT, INEFFECTIVE, AND WASTEFUL. IT HAS NOT HELPED AGENCIES DEAL WITH INDIVIDUALS WHOSE PERFORMANCE DOES NOT REFLECT THE EXCELLENCE EXPECTED OF SENIOR EXECUTIVES. I AM GLAD TO SEE THAT REPEAL OF RECERTIFICATION HAS BEEN INCLUDED IN S. 1603, AS WELL AS THE OTHER TWO BILLS.

AS AN ALTERNATIVE TO RECERTIFICATION, OPM HAS ADOPTED WHAT WE THINK IS A MORE EFFECTIVE APPROACH TO ASSESSING EXECUTIVE PERFORMANCE. WE HAVE CHANGED OUR REGULATIONS GOVERNING PERFORMANCE MANAGEMENT IN THE SENIOR EXECUTIVE SERVICE SO THAT THEY EMPHASIZE RESULTS OVER PROCESS. WE ALSO HAVE GIVEN

AGENCIES MORE FLEXIBILITY TO TAILOR PERFORMANCE MANAGEMENT SYSTEMS TO THEIR UNIQUE MISSION REQUIREMENTS AND ORGANIZATIONAL CULTURES. THIS NEW APPROACH STRENGTHENS THE LINK BETWEEN PERFORMANCE MANAGEMENT AND AGENCIES' STRATEGIC PLANNING, AND IT EMPHASIZES THE RESPONSIBILITY OF AGENCY LEADERS TO COMMUNICATE PERFORMANCE EXPECTATIONS TO THEIR SENIOR MANAGERS EARLY AND OFTEN.

WE ALSO ARE PROPOSING CERTAIN ANNUAL LEAVE ENHANCEMENTS TO BE USED AS INCENTIVES TO RECRUIT HIGHLY QUALIFIED SENIOR EXECUTIVES FROM OUTSIDE THE GOVERNMENT. THOSE RECRUITED FROM OUTSIDE GOVERNMENT CURRENTLY BEGIN WITH NO LEAVE BALANCE AND ACCRUE ONLY FOUR HOURS OF ANNUAL LEAVE EACH PAY PERIOD. WE KNOW THAT THIS IS A DISINCENTIVE FOR EXPERIENCED EXECUTIVES FROM THE PRIVATE SECTOR TO ENTER GOVERNMENT. UNDER OUR PROPOSAL, SENIOR EXECUTIVES AND CERTAIN OTHER SENIOR-LEVEL EMPLOYEES WOULD ACCRUE EIGHT HOURS OF LEAVE PER PAY PERIOD, REGARDLESS OF HOW MUCH PREVIOUS FEDERAL SERVICE THEY HAVE. IN ADDITION, AGENCIES COULD, IF THEY CHOSE, GIVE SENIOR-LEVEL EMPLOYEES RECRUITED FROM OUTSIDE GOVERNMENT A

LEAVE CREDIT OF UP TO TEN FULL DAYS.

WE RECOGNIZE THAT S. 1603 ALSO CONTAINS SOMEWHAT DIFFERENT ANNUAL LEAVE INCENTIVES, WHICH WE ARE OPEN TO CONSIDERING, ALTHOUGH THERE ARE SOME PRACTICAL IMPEDIMENTS TO IMPLEMENTING THEM AS WRITTEN. WE ARE HOPEFUL THAT THE DIFFERENCES BETWEEN S. 1603 AND THE ADMINISTRATION'S PROPOSALS ON LEAVE CAN BE HARMONIZED TO EVERYONE'S SATISFACTION.

STREAMLINED DEMONSTRATION PROJECT AUTHORITY; ALTERNATIVE PERSONNEL SYSTEMS

THE ADMINISTRATION'S PROPOSAL WOULD SIMPLIFY AND STREAMLINE THE PROCESS FOR IMPLEMENTING A PERSONNEL MANAGEMENT DEMONSTRATION PROJECT UNDER CHAPTER 47 OF TITLE 5, UNITED STATES CODE. THE CUMBERSOME NATURE OF THE CURRENT PROCESS LEADS SOME AGENCIES TO SEEK SPECIAL STATUTORY EXEMPTIONS FROM TITLE 5 RATHER THAN GOING THROUGH ALL THE RED TAPE THAT IS NECESSARY TO DESIGN AND IMPLEMENT A DEMONSTRATION PROJECT.

IN ADDITION TO STREAMLINING THE PROCESS, WE ARE PROPOSING A

MECHANISM FOR MAKING A SUCCESSFUL PROJECT PERMANENT AND FOR EXTENDING THE TESTED INNOVATION TO OTHER ORGANIZATIONS IN THE GOVERNMENT. UNDER CURRENT LAW, A DEMONSTRATION PROJECT CANNOT BE MADE PERMANENT UNLESS CONGRESS ENACTS SPECIAL LEGISLATION TO DO SO.

S. 1639 ALSO WOULD ALLOW AN AGENCY TO CREATE A PERMANENT ALTERNATIVE PERSONNEL SYSTEM THAT COULD DEVIATE FROM THE STANDARD REQUIREMENTS OF TITLE 5. OPM WOULD HAVE TO DETERMINE THAT THE ALTERNATIVE SYSTEM BEING PROPOSED WOULD NOT NEED TESTING AS A DEMONSTRATION PROJECT BEFORE BEING IMPLEMENTED PERMANENTLY IN THE AGENCY. AGENCIES ADOPTING AN ALTERNATIVE PERSONNEL SYSTEM WOULD STILL HAVE TO ADHERE TO CERTAIN CORE VALUES OF FEDERAL HUMAN RESOURCES MANAGEMENT, SUCH AS MERIT SYSTEM PRINCIPLES, NON-DISCRIMINATION, RESTRICTIONS ON POLITICAL ACTIVITIES, AND OTHER ETHICS LAWS.

WE BELIEVE THESE CHANGES WILL VERY SUBSTANTIALLY BROADEN AGENCIES' FLEXIBILITY TO CREATE UNIQUE SOLUTIONS TO THEIR SPECIALIZED NEEDS WHILE MAINTAINING AND STRENGTHENING

AGENCIES' ACCOUNTABILITY TO TAXPAYERS.

I WOULD LIKE TO COMMENT BRIEFLY ON AN ADDITIONAL FEATURE OF S. 1603 THAT IS NOT PART OF THE ADMINISTRATION'S PROPOSALS. S. 1603 CONTAINS A NEW AUTHORITY FOR TEMPORARY "CRITICAL NEEDS" APPOINTMENTS. THIS PROPOSED GOVERNMENT-WIDE AUTHORITY IS MODELED AFTER A SIMILAR AUTHORITY PROVIDED TO THE INTERNAL REVENUE SERVICE SO THAT IT COULD QUICKLY HIRE A LIMITED NUMBER OF INDIVIDUALS WHO HAD SPECIAL EXPERTISE THE IRS URGENTLY NEEDED AND PAY THEM MUCH HIGHER SALARIES THAN WOULD OTHERWISE BE ALLOWED. WE ARE NOT CONVINCED THAT IT IS NECESSARY OR APPROPRIATE TO EXTEND THIS AUTHORITY TO ALL OF GOVERNMENT. EXCEPTED APPOINTING AUTHORITIES ALREADY EXIST THAT CAN MEET MOST AGENCY NEEDS FOR THE EFFICIENT HIRING OF CRITICALLY NEEDED EXPERTS. WE BELIEVE THE CURRENT GOVERNMENT-WIDE CRITICAL PAY AUTHORITY IN TITLE 5 OF THE U.S. CODE SHOULD BE USED MORE WIDELY BEFORE ENACTING NEW SPECIAL PROVISIONS. WE WOULD URGE A MORE COMPREHENSIVE APPROACH TO MODERNIZING THE FEDERAL PAY SYSTEMS, AND WE ARE HARD AT WORK ON JUST SUCH A COMPREHENSIVE APPROACH.

AS YOU MAY KNOW, OPM HAS UNDERTAKEN AN EXTENSIVE REVIEW OF THE WHITE-COLLAR PAY AND CLASSIFICATION SYSTEMS KNOWN AS THE GENERAL SCHEDULE. VERY SOON WE WILL SHARE THE RESULTS OF THAT REVIEW IN THE FORM OF A WHITE PAPER THAT SUMMARIZES OUR RESEARCH. THE PAPER IS INTENDED TO OPEN THE CONVERSATION ON THE POSSIBILITIES FOR MODERNIZING THE FEDERAL WHITE-COLLAR PAY SYSTEM. THIS ALSO IS AN IMPORTANT SIGNAL THAT THE ADMINISTRATION IS OPEN TO AN EARNEST DIALOGUE ON WHAT THE SOLUTIONS COULD BE. WE BELIEVE A MEANINGFUL DEBATE ABOUT PAY NEEDS TO BE BROADER AND COVER THE ENTIRE SYSTEM, RATHER THAN JUST THIS YEAR'S PAY RAISE. WE KNOW THAT MANY THINK THE PRESIDENT'S PROPOSED PAY RAISE IS NOT NEARLY ENOUGH, AND WE UNDERSTAND THEIR POSITION. HOWEVER, THAT PROPOSED INCREASE CONSTITUTES A REASONABLE AND PRUDENT USE OF SEVERELY CONSTRAINED RESOURCES. AS OUR REVIEW WILL SUGGEST, THERE MAY BE FAR MORE IMPORTANT AND FUNDAMENTAL QUESTIONS THAT WE SHOULD ADDRESS TOGETHER TO ENSURE THAT THE FEDERAL GOVERNMENT EQUIPS ITSELF WITH A MODERN PAY SYSTEM THAT SUPPORTS THE STRATEGIC MANAGEMENT OF HUMAN CAPITAL IN THE 21ST CENTURY.

ONCE AGAIN, I AM GRATEFUL FOR THE OPPORTUNITY TO DISCUSS THESE MATTERS WITH YOU, AND I WOULD BE HAPPY TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on International Security,
Proliferation and Federal Service Committee on
Governmental Affairs, U.S. Senate

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MANAGING FOR RESULTS

Building on the Momentum for Strategic Human Capital Reform

Statement of David M. Walker
Comptroller General of the United States



GAO-02-528T

Chairman Akaka, Ranking Member Cochran, and Members of the Subcommittee:

I am pleased to be here today to discuss the progress and next steps that the federal government needs to take in order to manage its most important asset—its people, or human capital. My central point today is that an organization's people define its culture, drive its performance, and embody its knowledgebase. As such, effective human capital approaches must be at the center of efforts to transform the culture of federal agencies so that they become less hierarchical, process-oriented, stovepiped, and inwardly focused; and more flat, results-oriented, integrated, and externally focused. The legislation you are considering today, both in its basic underlying principles and in some of its major provisions, would make a positive contribution to advancing this needed cultural transformation.

The tragic events of September 11 and the continuing efforts at homeland preparedness dramatically demonstrate what many of us have long appreciated—public servants at all levels of government play an essential role in keeping us safe, secure, and free. The response to September 11 and other recent events also have underscored the urgency of dealing with federal human capital issues. As you know, Mr. Chairman, we testified last week before this subcommittee on one aspect of the human capital implications of September 11—the challenges agencies face in meeting their needs for staff with foreign language skills.¹ More generally, the Federal Bureau of Investigation and other federal law enforcement agencies have been forced to rethink their missions and programs including critical staff needs, skills mixes, and the geographic distribution of staff. In addition, the newly formed Transportation Security Administration must deal with a host of enormous challenges associated with starting a new agency virtually from scratch, most dramatically shown by the need to hire over 40,000 employees, including about 30,000 screeners that must be deployed by November 19, 2002.

From an entirely different but also time-sensitive perspective, the collapse of ENRON has highlighted attention to the fact that U.S. securities markets have grown tremendously in recent years and become more complex and

¹U.S. General Accounting Office, *Foreign Languages: Workforce Planning Could Help Address Staffing and Proficiency Shortfalls*, GAO-02-514T (Washington, D.C.: Mar. 12, 2002).

volatile. As a result, for example, the Security and Exchange Commission's workload has increased in volume and complexity over the last decade, while its ability to hire and retain skilled staff has not kept pace.²

While recent events certainly underscore the need to address the federal government's human capital challenges, the basic problem has been the longstanding lack of a consistent strategic approach to marshaling, managing, and maintaining the human capital needed to maximize government performance and assure its accountability. Serious human capital shortfalls are eroding the capacity of many agencies, and threatening the ability of others, to economically, efficiently, and effectively perform their missions.³ The federal government's human capital weaknesses did not emerge overnight and will not be quickly or easily addressed. Committed, sustained, and inspired leadership and persistent attention on the behalf of all interested parties will be essential if lasting changes are to be made and the challenges we face successfully addressed.

On the other hand, as a very positive development, we are seeing increased attention to strategic human capital management and a real and increasing momentum for change is now evident.

- In January 2001, GAO designated strategic human capital management as a governmentwide high-risk area.
- In August 2001, President Bush placed human capital at the top of his management agenda.
- Subsequently, the Office of Management and Budget (OMB) assessed agencies' progress in addressing their individual human capital challenges as part of its management scorecard in preparation of the fiscal year 2003 budget.
- As one of its many efforts to help agencies with these issues, the Office of Personnel Management (OPM) released a human capital balanced scorecard last December to assist agencies in responding to the OMB scorecard.

²U.S. General Accounting Office, *SEC Operations: Increased Workload Creates Challenges*, GAO-02-302 (Washington, D.C.: Mar. 5, 2002).

³U.S. General Accounting Office, *Performance and Accountability Series—Major Management Challenges and Program Risks: A Governmentwide Perspective*, GAO-01-241 (Washington, D.C.: Jan. 2001). In addition, see the accompanying 21 reports (numbered GAO-01-242 through GAO-01-262) on specific agencies.

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- Finally, Congress, under the leadership of this subcommittee and the Senate Governmental Affairs Committee, has underscored the consequences of human capital weaknesses in federal agencies and pinpointed solutions through the oversight and wide range of hearings held over the last few years.

As requested by the subcommittee, my statement today will explore how strategic human capital management can contribute to transforming the cultures of federal agencies. First, I will highlight the major components of a new model of strategic human capital management that we released last week as an exposure draft to assist agencies in making that transformation. In developing this model, we benefited from the insights and suggestions of Director James and her staff at OPM, OMB, and many others both inside and outside of the federal government. Second, I will discuss some key practices that agencies need to have in place to effectively use human capital authorities. Both OPM's recent efforts and the legislation under consideration today expand the flexibilities, authorities, and responsibilities of federal agencies for the strategic management of their human capital. Third and finally, I will highlight what I believe to be some of the more promising provisions of what we understand are the emerging managers' amendments to the Senate Bill 1603, The Federal Human Capital Act of 2001 (Federal Human Capital Act).

GAO's Model of Strategic Human Capital Management

Our model of strategic human capital management⁴ is designed to help agency leaders effectively lead and manage their people and integrate human capital considerations into daily decision-making and the program results they seek to achieve. In so doing, the model highlights the importance of a sustained commitment by agency leaders to maximize the value of their agencies' human capital and to manage related risks. Accordingly, it raises the bar for all of us—those in positions of leadership, federal managers, employees, unions, and human capital executives and their teams.

In publishing this model, we are aware that GAO is not the only agency releasing tools for strategic human capital management. As I noted before,

⁴U.S. General Accounting Office, *A Model of Strategic Human Capital Management, Exposure Draft*, GAO-02-373SP (Washington, D.C. March 2002). The model and other General Accounting Office products discussed in this statement are available at www.gao.gov.

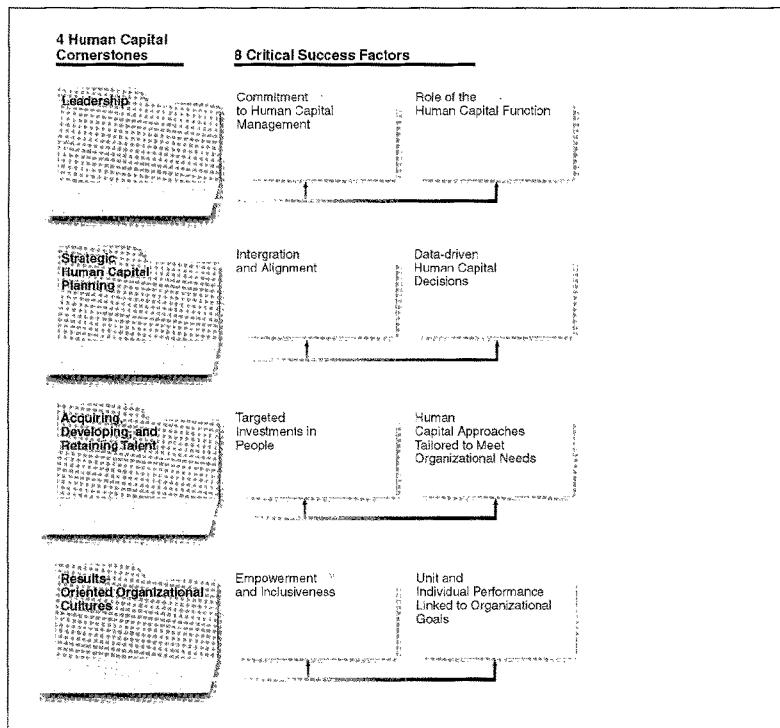
OPM and OMB have developed tools that are being used to assess human capital management efforts. While GAO's human capital model was developed independently of OPM and OMB, we provided drafts of the model for their review prior to publication to help ensure that the three efforts are conceptually consistent. We hope that the perspective and information provided in our model will help inform agencies' efforts to respond to the administration's management initiatives, such as getting to "green" on OMB's management scorecard, and using the tools developed by OPM. Over the coming months, we will work with OPM, OMB, Congress, and others to explore opportunities to develop a more fully integrated set of guidance and tools for agencies for addressing their human capital challenges.

Consistent with OPM's and OMB's views, our model of strategic human capital management embodies an approach that is fact-based, focused on strategic results, and incorporates merit principles and other national goals. As such, the model reflects two principles central to the human capital idea:

- People are assets whose value can be enhanced through investment. As with any investment, the goal is to maximize value while managing risk.
- An organization's human capital approaches should be designed, implemented, and assessed by the standard of how well they help the organization pursue its mission and achieve desired results or outcomes.

The model highlights the kinds of thinking that agencies should apply, as well as some of the steps they can take, to make progress in managing human capital strategically. The heart of the model consists of eight critical success factors, which are organized in pairs to correspond with four cornerstones of effective strategic human capital management.

Figure 1: Critical Success Factors Organized By Human Capital Cornerstones



Leadership

A critical element of any successful organizational cultural transformation is the demonstrated commitment of top leaders to change.³ Specifically, agency leaders, political and career alike, must embrace strategic human capital management and related change management approaches. Agency leaders need to see people as vital assets to organizational success and must invest in this valuable asset. Agencies can foster this thinking and commitment in their future leaders through efforts such as succession planning and executive development. In addition, agencies need to hold managers accountable for effectively managing people and actively supporting these concepts. Commissioner Rossotti's efforts at the Internal Revenue Service (IRS) provide one clear example of leadership's commitment to change. The Commissioner has articulated a new mission for the agency, together with a set of strategic goals that balance customer service and compliance with tax laws. The Commissioner is personally leading the effort to realign organizational units, programs, and resources to achieve the new mission and goals. The Commissioner's recent announcement that he plans to leave IRS shortly underscores that importance of political and career leadership working together to develop, implement, and sustain transformational change initiatives. These changes are critical but often take years and span periods far beyond the tenure of a single political appointee.

Federal leaders must also integrate the human capital function into agencies' core planning and business activities. Human capital professionals must partner with agency leaders, line managers, and unions in developing strategic and program plans. In short, top human capital professionals in agencies across the government must move from the "back room to the boardroom." Leaders must devote the resources necessary to retool employees in human capital offices so that they are prepared and empowered to provide a range of technical and consultative services. As part of this transition, continuing efforts are needed to streamline and automate personnel transactions to free up resources so that the human capital office can devote more time to providing consultative services to line managers as they seek to integrate human capital into their management activities.

³ U.S. General Accounting Office, *Management Reform: Elements of Successful Improvement Initiatives*. GAO/T-GGD-00-26 (Washington, D.C.: Oct. 15, 1999).

**Strategic Human
Capital Planning**

Agencies must establish a clear set of organizational intents, including a clearly defined mission, core values, goals and objectives, and strategies, and then integrate their human capital approaches to support these strategic and programmatic goals. Agencies need to constantly reevaluate their human capital approaches as program priorities and strategies change. Agency strategic human capital planning must be results-oriented and data-driven, including, for example, information on the appropriate number and location of employees and their key competencies and skills. Strategic workforce planning documents should include data on the agency's workforce profile, performance goals and measures for human capital approaches, and areas requiring agency attention. The Air Force Materiel Command, for example, has collected important human capital data and used it to develop human capital strategies to ensure the organization has the appropriate mix of civilian, military, and contract employees to meet future business needs.

**Acquiring,
Developing, and
Retaining Talent**

Agencies must identify their current and future human capital needs and then create strategies for filling the gaps. An important part of these strategies is targeted investments to provide resources for the planning, implementation, and evaluation of human capital initiatives. Agencies that focus on strategic human capital management realize that as the value of their people increases so does the performance capacity of the organization. This investment is valuable for both employers and employees alike. Our ongoing work at the State Department provides an example of how targeted human capital investments can pay off for an agency. To enhance its information technology (IT) workforce, State provides incentives and retention allowances to IT personnel who obtain job-related degrees and certifications. This program has helped State increase its information technology skills base and aided in the recruitment and retention of IT professionals.

Agencies focusing on strategic human capital management develop a tailored approach to use the personnel authorities that are appropriate for their particular organization and its needs. Under current laws, rules, and regulations, agencies have the flexibility to offer competitive incentives to attract employees with critical skills; to create the kinds of performance incentives and training programs that motivate and empower employees; and to build constructive labor-management relationships that are based on common interests and are in the public interest. Agencies should develop a sound business case for using these flexibilities by focusing on how a given flexibility will address human capital challenges and ultimately improve agency results.

Results-Oriented Organizational Cultures

Effective human capital strategies require a collaborative environment where a diverse set of managers, teams, and employees are empowered to accomplish programmatic goals. A key ingredient to developing a results-oriented culture is for agencies to involve employees in decision-making either directly or through employee unions and organizations, as appropriate. Involving employees in the planning process helps to develop agency goals and objectives that incorporate insights about operations from a front-line perspective. Involving employees can also serve to increase employees' understanding and acceptance of organizational goals and objectives and improve motivation, morale, and retention.⁶ Agencies also must promote and achieve a diverse workplace that meets the needs of workers of all backgrounds. Not only do effective agencies maintain a "zero tolerance" for discrimination; they also realize that an inclusive workforce is a competitive advantage.

Another success factor of a results-oriented culture is a performance management system that creates a "line of sight" showing how individual employees can contribute to overall organizational goals. Agencies who effectively implement such a system must first align agency leaders' performance expectations with organizational goals and then cascade performance expectations to other organizational levels. These employees are then held accountable for their contributions to achieve desired results. The performance management systems of leading organizations typically seek to achieve three key objectives. First, they strive to provide candid and constructive information to individual employees to enable those employees to maximize their contributions to the organization's goals and achieve their personal potential. Second, they seek to provide management with the objective and fact-based information it needs to reward top performers. Third, the performance management systems provide the necessary information and documentation to deal with poor performers.

Leading organizations also use their performance management systems as a key tool for managing the organization on a day-to-day basis, facilitating communication throughout the year so that discussions about individual and organizational performance are ongoing. For example, the Veterans Health Administration holds key leaders accountable for results by establishing performance agreements that consist of "core competencies,"

⁶U.S. General Accounting Office, *Human Capital: Practices that Empowered and Involved Employees*, GAO-01-1070 (Washington, D.C.: Sept. 14, 2001).

agencywide goals, and specific performance goals that gauge the organization's progress toward meeting the agency mission.⁷ These performance agreements are used continuously throughout the year as a basis for monitoring organizational progress, identifying performance gaps, and making needed program adjustments.

Finally, agencies should also balance their pay and incentive programs to encourage both individual and team contributions to achieving results. Congress and the Administration have repeatedly expressed a commitment to more fully link resources to results. The American people expect and deserve this linkage as well. However, we will never achieve this linkage without modern and effective performance management strategies. In my view, much greater emphasis needs to be placed on performance management and its linkage to compensation.

Key Practices Needed to Effectively Use Human Capital Authorities

I would now like to turn to a more detailed discussion regarding the third cornerstone of our model—the tailored use of human capital flexibilities for acquiring, developing, and retaining talent. For years, the civil service system as a whole has been viewed by many as burdensome to managers, unappealing to ambitious recruits, hidebound and outdated, overregulated, and inflexible. While comprehensive civil service reform may likely be necessary in the coming years, agencies do not have to wait for legislative reform to occur to make needed improvements in human capital management. As I have testified previously, agencies need to make concerted efforts in identifying and maximizing the flexibilities already available under existing personnel laws, rules, and regulations.

The Federal Human Capital Act that we are discussing today would expand the authorities available to agencies to strategically manage their workforces. A study that we are conducting for this subcommittee and others is looking at agencies' use of the flexibilities currently available and therefore is informative to the current discussion. As part of this study, we interviewed major department and agency human resource directors and on the basis of those discussions and our related work, we identified a preliminary list of key practices agencies need to undertake in order to make effective use of personnel authorities:

⁷ U.S. General Accounting Office, *Managing for Results: Emerging Benefits From Selected Agencies' Use of Performance Agreements*, GAO-01-115 (Washington, D.C.: Oct. 30, 2000).

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- *Plan strategically and make targeted investments.* Agencies need to ensure that the use of flexibilities is part of an overall human capital strategy clearly linked to the program goals of the organization. Agencies also need a sound business case for how they will use and fund the authorities.
 - *Ensure stakeholder input in developing policies and procedures.* Agency leaders, managers, employees, and employee unions must work together to effectively implement any flexibility or new personnel authority in order to reach agreement on the need for change, the direction and scope that change will take, and how progress will be assessed.
 - *Educate managers and employees on the availability and use of authorities.* Human capital offices need to ensure that they have an effective campaign not only to inform managers of their personnel authorities, but also to explain the situations where the use of those authorities is appropriate. Agencies also need to inform employees about relevant policies and procedures and about the employees' rights related to the use of these authorities.
 - *Streamline the administrative processes.* Agencies should streamline administrative processes for using flexibilities and review self-imposed constraints that may be excessively process-oriented. Human resource directors said that managers often complain that complicated forms and multiple approval levels hamper the use of flexibilities. In the absence of a simple process, busy supervisors and managers may not make the effort to seek the approval to use a flexibility. Reengineering self-imposed processes could yield substantial opportunities for the additional use of flexibilities. To the extent that agencies identify regulatory or statutory barriers to flexible human capital approaches, they should work with OPM and OMB to seek the necessary regulatory or statutory changes.
 - *Build accountability into the system.* To ensure accountability, agencies should delegate authority to use flexibilities to appropriate levels within the agency. Agencies must develop clear and transparent guidelines for using flexibilities. Agencies must then hold managers and supervisors accountable for their fair and effective use.
 - *Change the organizational culture.* While accountability is essential, agencies need to address managers' and supervisors' concern that employees will view the use of some flexibilities, such as recruiting incentives or rewarding high performers, as unfair, and the belief that all employees must be treated essentially the same regardless of performance and agency needs. Managers should be encouraged to selectively use flexibilities based on clearly defined, well documented, and transparent guidelines.

While we will continue our work in this area, our preliminary view is that agencies need to employ these practices to effectively take advantage of the new authorities that are proposed in the legislation under consideration today. Working with the subcommittee and agencies, we are doing additional work to validate the list of practices and to identify specific examples of where an agency has successfully developed and employed each listed practice. Our hope is that this work will be helpful to agencies as they seek to maximize the use of personnel authorities—both those available under current law and regulation, and those additional authorities that may be granted in the future.

Proposed Legislation Makes Positive Steps to Addressing Human Capital Challenges

Key provisions of the Federal Human Capital Act represent an important next step to helping agencies address their human capital management challenges. I appreciate the opportunity that the subcommittee provided to my staff and me to offer input as the legislation was being initially crafted. Many of the provisions contained in the bill are consistent with authorities GAO already has or has been urging for other federal agencies. Key provisions would make a positive contribution to each of the human capital management cornerstones I discussed earlier: leadership; strategic human capital planning; acquiring, developing and retaining talent; and results-oriented organizational cultures. Since we provided detailed comments in earlier discussions with the subcommittee on the proposed bill as it was being crafted, this morning I will just comment on those provisions that I believe are particularly valuable in fostering the needed cultural transformation within agencies.

Leadership – The Federal Human Capital Act contains several provisions to strengthen leadership over human capital. We believe that federal agencies need to have a senior official responsible for the organization's strategic human capital management. The broad range of responsibilities for the chief human capital officer listed in the legislation are generally consistent with those that I have placed with GAO's chief human capital officer. GAO's chief human capital officer, as a key member of our executive team, provides human capital services to all headquarters and field staff in support of GAO's strategic direction and key efforts. While designating a chief human capital officer is a very positive step, it should not in any way be seen as reducing the responsibilities that the agency's highest leadership has for human capital issues. In knowledge-based organizations, including most federal agencies, where people are the organization's most important asset, attention to the organization's human capital is one of the primary responsibilities of the head of that organization. Creating a chief human capital officer council, modeled on

the chief financial officer and the chief information officer councils, is a very good idea in my view. We have reported in the past that the use of councils to develop and implement initiatives to address federal management issues and to serve as "communities of interest" to, among other things, share best practices, was one of the major positive public management developments over the past decade.⁸

As a next step, the subcommittee may wish to consider creating statutory chief operating officers (COO) within major executive branch agencies. While various models for structuring such a position could be used, the basic idea is to create a position that would be responsible for major, long-term management, cultural transformation, and stewardship responsibilities within the agency. These long-term responsibilities are professional and nonpartisan in nature. They cover a range of "good government" responsibilities that are fundamental to effectively executing any administration's program agenda. The nature and scope of the cultural transformation that needs to take place in many agencies across the federal government will take years to accomplish—easily outrunning the tenures of most political appointees. For example, the business transformation efforts that are underway at the Department of Defense may take a decade or more to be fully and effectively implemented. Secretary Rumsfeld and his leadership team are clearly committed to making the necessary changes. A COO at Defense and elsewhere, subject to a clearly-defined, results-oriented performance contract, could provide the continuity that spans the tenure of the political leadership and help ensure that long-term stewardship issues are addressed and change management initiatives are successfully completed. In this sense, these statutory COOs would differ from—but hopefully complement—the role often assumed by the deputy secretaries in the agencies. We would be pleased to work with the subcommittee should you wish to explore this idea.

Human Capital Planning – The legislation also addresses key strategic human capital planning issues. It underscores the need for agencies to clearly and directly link their human capital planning efforts with their strategic and program plans developed under the Government Performance and Results Act. Moreover, I believe that the early retirement

⁸ U.S. General Accounting Office, *Government Management: Observations on OMB's Management Leadership Efforts*, GAO/T-GGD/AIMD-99-65 (Washington, D.C.: Feb. 4, 1999)

and buy-out authorities are important provisions. The changes make appropriate recognition of the need to consider employee skills and abilities—in addition to longevity—when making such decisions as a part of overall workforce planning. As our own experience in GAO has shown, such authorities can and should be used to help “get agencies in shape” to respond to current and emerging needs rather than as a blunt instrument for downsizing. Over time, Congress may wish to consider adding employee performance as a factor that can be considered in making rightsizing decisions, consistent with the authorities that were provided to us. However, before performance could be included as a factor, agencies would need to ensure that they have modern, effective, and validated performance management systems in place that are needed to support such decisions.

Attracting, Developing, and Retaining Talent — Several provisions strengthen agencies’ abilities to attract, develop, and retain top talent. The increased flexibility in the amount and timing of the payments for recruiting, relocation, and retention bonuses is particularly noteworthy. Agency human resource directors told us that these flexibilities were among the most effective. The provisions that authorize agencies to pay for academic training for employees should have a positive influence in addressing recruitment and retention challenges as well as helping to build the knowledge and skills of the organizations’ people.

I have often noted that much of what needs to be done in regard to federal human capital management can be done now under agencies existing authorities. Thus, while we should continue to seek appropriate regulatory and statutory changes that would help streamline the federal hiring process, the agencies need not and should not wait. For example, they need to make sure that they have the recruitment programs in place to compete effectively for needed talent. This includes having well defined and creative recruiting strategies and appropriate processes in place to communicate with applicants and prospective employees in a timely manner.

I agree with the legislation’s efforts to instill a more strategic approach to federal employee training efforts. Agencies’ training and development programs should be based on the skills and competencies the agency needs and be directly linked to program goals and desired results. Agreeing on expected results and associated performance measures at the outset for training and development efforts can also help ensure that credible evaluation results will be available to provide feedback on performance. A systematic evaluation of training and development efforts

can help show how such efforts contribute to individual and organizational performance and suggest opportunities for further improvement.

Results-Oriented Culture – As you know, I believe that a much greater emphasis should be placed on skills, knowledge, and performance in connection with federal employment and compensation decisions at all levels, rather than the passage of time and rate of inflation, as so often is the case today. In fact, over 80 percent of the cost associated with the annual increases in federal salaries is due to longevity and the annual pay adjustment. In recent years, widespread concern has been expressed about the methodology and results of the procedures to determine the federal pay gap. These concerns are among the reasons that the pay gap has never been fully addressed. I believe that careful study is needed to develop more realistic and workable methodologies and solutions to federal pay issues. Part of that assessment should focus on options for moving away from a compensation system that contains governmentwide pay increases with locality adjustments, and toward a system that is based to a greater degree on knowledge, skills, abilities, and performance of the individuals involved. Additional information on the performance management programs in use in various departments and agencies and the relative strengths and weaknesses of those programs, along with best practice information, would also prove very helpful as agencies seek to link pay to individual knowledge, skills, abilities, and performance. Congress may wish to consider amending the legislation to require that these studies be undertaken; specifically a professional, objective, and independent assessment of the pay gap and a survey and assessment of performance management systems and programs across the government with a view toward identifying lessons learned and best practices in linking pay to employees' knowledge, skills, abilities, and performance.

I fully appreciate that much work may be needed before agencies' respective performance management systems are able to support a more direct link between pay and individual knowledge, skills, abilities, and performance. OPM certainly has a continuing and vital role to play on these issues. I understand that OPM is working on a white paper that should help inform the needed discussions. I expect that the greater use of "broad banding" is one of the options under consideration. In fact, as it considers the legislation, Congress may also wish to explore the benefits of providing OPM with additional flexibility that would enable it to grant a governmentwide authority for agencies (that is, class exemptions) to use broad banding for certain critical occupations and/or for agencies to apply to OPM (that is, case exemptions) for broad banding authority for their

specific critical occupations. However, agencies should be required to demonstrate to OPM's satisfaction that they have modern, effective, and validated performance management systems before they are allowed to use broad banding.

The Federal Human Capital Act recognizes the importance of a results-oriented culture focusing attention on poor performers whose affect on agencies' performance and morale can far exceed their numbers. Still, while important, dealing with poor performers is only part of the problem; agencies need to create additional incentives and rewards for valuable and high-performing employees, who represent the vast majority of the federal workforce. As I have just noted, to achieve this objective, more fundamental change will need to be considered.

In summary, Mr. Chairman, I believe that there is no more important management reform than strategic human capital management. We all need to seize the momentum that has recently emerged—agencies must use existing authorities to strategically manage their people; Congress, as it is doing with the proposed legislation, needs to consider statutory changes in the short term; and all interested parties need to consider more transformational changes for the longer term. Our model of strategic human capital management and our related work are designed to assist Congress and agencies in this regard. I look forward to continuing to work with Congress, OPM, OMB, the agencies, and others as we jointly seek to address the human capital challenges that are undermining agencies' effectiveness now and as they prepare for the future.

Thank you again for your continuing attention to human capital reform. The leadership shown by this subcommittee, by holding this and related hearings and in its oversight generally, has both helped to create and increase the needed momentum for change and highlight the need for, and direction of, possible solutions. I would be pleased to respond to any questions you or other Members of the subcommittee may have.

Contact and Acknowledgments

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**Testimony
Of
Colleen M. Kelley
National President
National Treasury Employees Union**

Chairman Akaka, Ranking Member Cochran, Members of the Subcommittee, my name is Colleen Kelley and I am the National President of the National Treasury Employees Union (NTEU). NTEU represents more than 150,000 federal employees across 25 agencies and departments of the federal government.

Thank you very much for holding this hearing today to consider changes in the federal government's approach to hiring and retaining employees. I think we all share the same goal - to entice the brightest, most talented and committed employees to public service and to ensure that the federal government remains an employer of choice.

The tragic events of September 11 showed the world that civil servants at every level of government are decent, hard-working men and women committed to doing the best job possible despite what are often difficult circumstances. Since that day, Customs employees have labored under heightened Level 1 border security in an effort to protect our borders, working long hours often far from home. Federal employees at the FDA and the Nation's other federal health agencies have worked to ensure the continuation of our safe food and water supply as well as access to critical medicines in the event of further bioterrorism attacks.

The need to hire and maintain a highly trained and skilled

federal workforce has never been more clear. Federal agencies are in a contest with state and local governments and private sector employers for the best employees; a battle we continue to lose.

Mr. Chairman, for too long, too little attention and too few resources have been spent on the federal government and its employees. Inadequate pay and benefits remain the primary obstacles to retaining the highly qualified employees we have today and recruiting the federal workforce we will need tomorrow.

There is really very little mystery surrounding the federal government's inability to attract young people to federal service. Quite frankly, a decision to fully implement the Federal Employees Pay Comparability Act (FEPCA) and provide federal employees with compensation that mirrors that received by their private sector counterparts would do more to address recruitment and retention in the federal government than all of the federal government's other incentive programs combined.

In spite of this, the President's budget proposes a 4.1% pay raise for the active duty military while suggesting that the Nation's civilian employees deserve no more than a 2.6% raise

next year. This is not a proposal the Administration would make if it were serious about fixing the human capital crisis.

It is especially ironic that these same federal employees who are apparently important enough to spend months in secret, remote locations to ensure continuity of government in the event of further terrorist attacks, are not even deserving of the same pay raise the Administration recommends for the Nation's military next year. The recommendation for a 2.6% pay raise next year for the Nation's federal workforce represents a slap in the face for every hard working federal employee represented by this Union.

According to the Bureau of Labor Statistics, in some parts of the country, the gap between private and public sector pay is as much as 30%. The Federal Employees Pay Comparability Act, which was designed to close this gap, has been on the books for more than 10 years now. It has never been fully implemented; even during times of budget surpluses. Yet, as we know, for most prospective employees, the most critical element in deciding whether or not to accept a job is salary. Moreover, the Congressional Research Service recently announced that in order to comply with the FEPCA law, federal employees would have to receive average raises of more than 18% in 2003. Despite these facts, the Administration has recommended a 2.6% federal employee

pay raise next year. Is it any wonder we face a human capital crisis?

It is particularly disturbing that the bills that are the subject of this hearing today - bills that seek to fix the human capital crisis - fail to address the crisis the government faces in federal pay. I do not think it is possible to solve the human capital crisis without addressing this critical issue. In NTEU's view, Mr. Chairman, any human capital legislation worth passing; any human capital legislation that will have NTEU's support, must address the crisis in federal pay.

Another key element of the federal compensation package in need of review is the federal health benefits program. Once a crown jewel in the federal benefits package, today premiums for coverage under the Federal Employees Health Benefits Program (FEHBP) have put it out of reach for many employees. The program has rapidly become not only prohibitively expensive for current employees, but unattractive to prospective employees as well. It, too, limits the federal government's ability to be competitive with the private sector.

FEHBP premiums increased an average of 13% in 2002, following hikes of 10.5% and 9.3% the previous two years. Over

the last five years, premiums for the most popular FEHBP plan, Blue Cross Standard Option Family Coverage, have increased by 60%. During this same period, federal salaries increased an average of 13%.

As health insurance premiums consume ever greater portions of employee take home pay, it is critical that the FEHBP, too, receive careful scrutiny. Legislation is pending before both the House and Senate (H.R.1307, S.1982) to increase the employer share of FEHBP premiums from the current average of 72% to the most common industry standard, 80%. These bills represent modest steps toward addressing the human capital crisis, yet despite the importance of affordable health insurance coverage to prospective employees, the human capital proposals pending before this body today do nothing to address this crisis either.

Another issue that continues to erode the morale of the federal workforce, and can't possibly encourage prospective employees, is the Administration's blind targets for contracting out federal jobs. The Bush Administration has set arbitrary privatization quotas for every federal agency, directing them to open up to the private sector 15% of their jobs considered to be commercial in nature by the end of FY 2003. The Administration will be directing agencies to ultimately open up to the private

sector 50% - more than 400,000 of these jobs. These arbitrary quotas cannot help but significantly disrupt operations at agencies like the IRS, which is in the middle of a sweeping reorganization plan, as well as agencies on the front lines of our homeland defense activities.

I think we can all agree that government services should be delivered to the American taxpayers in the most reliable, most efficient and most cost-effective manner, and that agencies should continue to strive for higher performance in the delivery of these services. However, these one size fits all arbitrary outsourcing quotas give no consideration to the unique needs of individual agencies. There is no concern for the potential impact on the agency's ability to carry out its mission. No thought has been given to the impact these quotas may have on potential cost overruns, waste or broken promises. Fifteen percent of jobs during FY 03. Period.

Would you seriously consider employment with the federal government knowing your job may be contracted out from under you for no reason other than to meet an arbitrary number? Any prospective employee is going to be looking for at least a minimum level of job security - this proposal flies in the face of that.

I do want to take a moment to applaud both Senators Voinovich and Durbin for speaking out against these mindless quotas during the March 6 hearing on contracting out. But if we are serious about improving the federal government's ability to attract and retain the best employees, more concrete action must be taken. NTEU believes Congress needs to let the Administration know on no uncertain terms that these quotas are counterproductive and will not stand. Until that happens, the federal government will continue to send nothing but negative messages to prospective employees.

I also want to comment specifically on several provisions contained in the human capital bills that are before this Committee today. In a November 8, 2001 letter to Chairman Lieberman, as well as in materials forwarded to Government Affairs Committee staff, NTEU has shared its strong objections to several provisions of S.1612, the Managerial Flexibility Act of 2001. NTEU objects to provisions changing the nature of demonstration projects as well as language permitting demonstration projects to be made permanent without Congressional approval.

In addition, we object to provisions that would grant SES

and certain other management level employees eight hours of leave each pay period. Rank and file federal employees must work 15 years for the federal government before earning eight hours of annual leave each pay period. If Congress believes that annual leave limits are a barrier to hiring, then the system should by all means be reformed. However, NTEU will strenuously oppose efforts to increase annual leave for management while leaving the current system in place for rank and file federal employees. If the annual leave system is in need of reform, then let's reform it for all federal employees.

NTEU also strenuously opposes Title II of S.1612 which presents a controversial new proposal requiring agencies to prefund the retirement and health benefit costs for their future retirees. As you know, retirement contributions that agencies make for their employees in the Civil Service Retirement System (CSRS) do not account for the full cost of that retirement. That is precisely why the newer, Federal Employees Retirement System (FERS) was adopted. Since the adoption of FERS, CSRS system shortfalls have been covered by mandatory payments to the retirement fund.

Title II of S.1612, as well as the President's FY 2003 budget proposal, seeks to subject these mandatory payments to the

annual appropriations process. For the first time, agencies would be required to pay these costs from their annual appropriations. If Congress failed to appropriate sufficient funding, or, if spending caps approved by Congress in future years precluded this funding, agencies would be faced with two choices. They would either no longer have the money to ensure payment of retiree health and retirement benefits, or they would be forced to further restrict employee training programs, reduce public services or conduct a reduction in force of federal employees.

These possibilities are not far-fetched; every year agencies are hamstrung by restrictive funding levels and forced to shuffle resources between competing priorities and from one account to another. This year will be no different. According to the Congressional Budget Office (CBO), once funding for homeland security and defense is removed from the discretionary spending figures suggested in the President's FY 2003 budget, discretionary spending declines by 1%. In other words, funding levels suggested by the President for domestic agencies will not even keep pace with inflation.

This provision has the potential to create an artificial funding shortfall that does not exist. These costs are already

accounted for through mandatory payments to the retirement fund.

Even the Administration admits that their proposal does not change the "bottom line of the budget as a whole...basic budgetary concepts of budget authority, obligations and outlays."

What this proposal would do, however, is shift from mandatory accounts to discretionary accounts, \$9.2 billion in FY 03 and attempt to further squeeze federal agencies' ability to perform their missions. NTEU urges this Committee to soundly reject this proposal.

Some members of Congress have also suggested that one possible solution to the government's recruitment and retention crisis is better use of the many personnel flexibilities available to federal agencies. As this Committee knows, federal agencies have a wealth of flexibilities available to them. There are programs on the books that permit agencies to offer retention allowances of up to 25% of salary, bonuses of up to 25% of basic pay, performance awards, student loan repayment awards, incentive awards and even bilingual awards.

Unfortunately, in December of 1999, the Office of Personnel Management reported that overall, only 0.14% of all Executive Branch employees received recruitment, retention or relocation incentives in Fiscal Year 1998. Recruitment bonuses were given

0.3% of the time. Relocation bonuses were given to 1.0% of employees and 0.09% of employees received retention allowances. Less than 1/4 of 1% of the federal workforce received any form of recruitment, retention or relocation incentive in Fiscal Year 1998. When agencies were asked why they did not use the incentives available to them, more often than not, they cited budgetary constraints. Agencies simply are not being given the resources necessary to fund the very programs and incentives that might actually help put them on the road to solving their human capital crises.

Some members of Congress have suggested increasing the amounts of money that agencies can offer prospective and current employees as well as expanding the circumstances under which recruitment and retention allowances can be offered. This possible solution ignores the basic problem. Expanding the availability of these incentives makes little sense if agencies are not provided with the resources to accomplish the goal. And, with agencies slated to receive a 1% reduction in their discretionary spending accounts for 2003, it is difficult to see how increasing and expanding recruitment and retention allowances will in any way translate into more of these flexibilities actually being offered to either prospective or current federal employees.

While NTEU welcomes legislation that draws attention to the federal government's human capital crisis, S.1603, too, includes provisions that NTEU is unable to support. While the legislation draws long overdue attention to the need to properly train employees, again, it does nothing to address the resource problems that have prevented agencies from adequately training their employees in the past. As we already know, absent Congressional intervention to provide increased resources, agencies will not even receive as much discretionary funding for salaries, and expenses such as training, in FY 2003 as they did in 2002.

The legislation also includes a provision that seeks to alter the competitive service hiring process. Like the members of this committee, NTEU is keenly interested in ensuring that candidates for federal employment can be brought on board as soon as is practical. However, we question whether moving away from the current rule of three accomplishes this goal. We also question whether or not a new system will be perceived as fair by current and prospective employees, will preserve merit principles, and whether or not it will ultimately lead to the best candidate being hired.

While proponents of the Department of Agriculture system claim that category ranking gives the hiring manager a broader choice of candidates from which to choose, critics point out that managers must be properly trained to assess individuals and make selections for this system to work properly. A poorly prepared manager would probably do a better job choosing among three candidates previously ranked for him or her.

A December, 2001 report issued by the Merit Systems Protection Board (Assessing Federal Job Seekers in a Delegated Examining Environment), raises serious questions about how to protect federal merit hiring in today's decentralized hiring environment. Federal government hiring has changed dramatically in the last 20 years, most notably with movement away from a centralized applicant assessment process operated by the Office of Personnel Management (OPM). Today, nearly 700 examining units within federal departments and agencies examine job applicants. According to the MSPB, the biggest disadvantage of this decentralization has been the lack of expertise in many federal offices to develop and maintain effective applicant assessment methodologies. In addition, MSPB reports, agencies that do not have the necessary expertise also don't have the resources to purchase the services elsewhere.

The MSPB report goes on to point out that agencies that regularly hire are more likely to have well developed personnel assessment tools. On the other hand, agencies that have been hamstrung by artificial personnel ceilings and hiring prohibitions in recent years are least able to effectively hire the individuals they may need. OPM maintains a professional staff skilled in personnel assessment, however, it does not receive funding to provide this assistance to agencies. Due to funding restrictions, agencies can only get OPM's help if they can afford to pay OPM for its services. Once again, agencies often cannot afford to purchase the expertise they require.

The MSPB report continues that the move toward decentralized applicant processing and hiring was motivated by the need for a hiring system that was faster and more flexible. While it may have achieved that goal, it appears that because some agencies do not use high quality processes for assessing applicants, the principle of selection of candidates based solely on merit may often be lost.

NTEU believes we need to move deliberately in this area. MSPB's findings must be taken seriously and I am sure the Committee would agree that making the hiring process faster at the expense of merit would not produce a positive outcome. We

look forward to further discussion on this critical issue with the Committee.

S.1603 would also grant critical pay authority to federal agencies on a limited basis. Some have argued that this provision is necessary in order for the government to compensate highly qualified individuals on a level similar to what they might command in the private sector. As you know, NTEU would argue that inadequate pay prevents the federal government from hiring the best employees at **all** levels of government.

Moreover, a recent edition of Tax Notes (October 29, 2001, pages 593-609) raises serious questions about the use of critical pay authority in the federal government. The article states in part, "...when one looks at how the authority is being used, one might conclude that the IRS is exercising poor judgment. Although some critical pay employees with impressive and crucial skills were hired under this authority, others do not seem up to the standard."

The article also points out that six of the IRS's critical pay hires were public relations professionals and questions the wisdom of using this authority for PR people. In addition, Senator Grassley, a member of the National Commission on

Restructuring the IRS which originally recommended critical pay authority for the IRS, has also raised serious questions about its use.

NTEU also objects to language in S.1603 that would reduce the notice of termination a poor performing employee would receive from 30 to 15 days. NTEU has serious concerns that this move could lead to the inappropriate termination of employees. While critics often complain that it is virtually impossible to fire a federal employee, the facts do not bear this out.

According to the Merit Systems Protection Board (MSPB), 8,400 federal employees were either fired, or quit in lieu of being fired, in the year 2000. Rather than reducing the proposed termination period, NTEU thinks it makes more sense to better train managers to manage and motivate their employees. All new federal employees are subject to a one-year probationary period during which they have very few rights. It seems to us that the best time to determine whether or not an employee will work out is during this period of time. Managers need to be better educated concerning their rights and responsibilities during this period and better trained to carry them out.

Thank you again, Mr. Chairman, for inviting NTEU to share

our thoughts today on the multitude of issues before this Committee. We appreciate the attention you continue to give these important matters and we look forward to continuing to work with the Governmental Affairs Committee on the federal government's human capital crisis. I hope that, together, we will be able to craft legislative solutions to the severe problems the federal government faces.

STATEMENT BY

**BOBBY L. HARNAGE, SR.
NATIONAL PRESIDENT
AMERICAN FEDERATION OF GOVERNMENT
EMPLOYEES, AFL-CIO**

Mr. Chairman and Members of the Committee: My name is Bobby L. Harnage, and I am the National President of the American Federation of Government Employees, AFL-CIO (AFGE). On behalf of the roughly 600,000 federal employees throughout the government that our union represents, I thank you for the opportunity to testify on the draft proposals addressing various personnel issues.

In your invitation to testify you requested that I address five broad questions regarding the draft proposals. Before addressing your questions in detail, I want to commend the Chairman, as well as Senator Voinovich and Senator Thompson for removing several of the provisions of the Federal Human Capital Act of 2001 and the Managerial Flexibility Act which we found most objectionable. We were particularly concerned with numerous provisions of S. 1612 and are gratified to see that the draft proposal excludes such items as extending to the Office of Personnel Management the authority to make alternative personnel systems permanent without the approval of Congress, and shifting federal employees' earned retirement benefits from mandatory to discretionary accounts.

In addition, we were glad to see that the controversial idea of allowing executives of private firms to have temporary sojourns in federal agencies has been removed. We believe that such an exchange program raised grave conflict of interest and ethics questions, and would have done absolutely nothing positive for the government with regard to improving agencies' in-house staffing needs.

Instead, the program would have given contractors a tremendous opportunity to come in and evaluate their opportunities for future contracting, only worsening both the ethics crisis and the human capital crisis.

Finally, the draft proposals adopt the approach taken in Senator Voinovich's legislation with regard to the government-wide voluntary early retirement authority and voluntary separation incentive payments. While AFGE considers the buyout authority somewhat contradictory in the context of legislation that includes provisions designed to prolong the careers of highly experienced employees with phased "retreat into retirement," we were pleased to see that draft eschews the concept of a one-to-one ratio for buyouts and full time equivalent (FTE) eliminations. Tying buyouts to FTE elimination does a disservice to taxpayers since the implicit policy is a replacement of an apolitical, reliable, flexible, and cost-effective civil servant with contractors whose costs, loyalties, and willingness to perform are, in the best of circumstances, unknowns.

The questions Chairman Akaka has asked me with regard to the proposals indicate the Committee's clear understanding of the complexities involved in responding to the government's human capital crisis. You asked whether the draft proposals would help recruitment and retention of the workers agencies need to carry out their missions, and how S. 1612 and S. 1603 and the draft proposals contribute to improving management in government and the effect of better management on attrition. You asked how S. 1612, S.1603 and the draft

proposals might contribute to the establishment of an employee friendly environment in federal agencies, making the government an attractive employer to both current and future federal employees.

In addition, you asked two extraordinarily important questions that are often excluded from the debate over how to address the "human capital" crisis. You asked how recruitment and retention "concerns" could be balanced with the Administration's privatization quotas, and how the gap between the compensation offered to private sector employees and that offered to federal employees can be addressed.

These latter questions hold the solution to the federal government's human capital crisis. The draft proposals offer little of substance that will affect the rank and file federal employees AFGE represents. If the privatization quotas are not repudiated and the Administration succeeds in handing over 425,000 federal jobs to the contractors, civil service reforms such as those in either the draft proposals or S. 1612 or S.1603 will become even more irrelevant. There will be no civil service, just a corps of political appointees and acquisition officers churning through the revolving door between contracting agency and contractor.

Likewise, the large and growing gaps between the pay and benefits provided to employees of large private sector firms and unionized state and local government employees on the one hand, and federal employees on the other, is not a mere

detail. The federal government pays competitive salaries and provides comprehensive health insurance benefits – to some of its contractor employees. But the government's in-house workforce gets the shaft. A decade after a bipartisan federal pay law was signed by the elder President Bush, federal salaries still lag the private sector by 22%. Thirteen years after the Congressional Research Service wrote the definitive report showing the Federal Employees Health Benefits Program was inferior to that offered by our nation's most successful private firms and its largest states by substantial margins, the benefits gap has also worsened. There is no excuse – no fiscal excuse, no excuse that data describing the dimensions of the gaps were not available, no excuse that unions were intransigent and unwilling to negotiate even partial solutions. We have pleaded with every Congress and two Administrations to address the compensation gaps. And we hear a deafening silence.

Question #1: How would the draft proposal help recruit and retain the people agencies need to carry out their missions?

Despite the best intentions of the authors, unfortunately I do not believe that the provisions of the draft proposals would produce a noticeable improvement in the government's ability to recruit and retain the next generation of government workers. Absent a lifting of the Administration's privatization quotas, agencies will pretend to "carry out their missions" using contractors, but they will not

succeed. By that I mean that they will not succeed in carrying out their missions, if "mission" is taken to mean providing to the American taxpayer a high-quality public service at the lowest cost, free from political corruption.

AFGE views the human capital crisis a result of three specific policies: The downsizing of the Clinton era, the privatization-at-any-cost frenzy of both the Clinton and Bush Administrations, and the refusal to adhere to the Federal Employees Pay Comparability Act (FEPCA) first by the Clinton Administration and now by the Bush Administration. Taken together, these three policies have left agencies without adequate staff, without direct control over far too many of their core functions, and without the ability to pay the existing or prospective federal workforce adequate salaries.

Section 207 of the draft proposals would increase the size of the recruitment, retention, and relocation bonuses agencies would be authorized to pay. This proposal dates from the 1990's when employers exploited the hype surrounding dot-coms to declare that employees – professionals in particular – were no longer looking for career employment, no longer valued or desired a stable and secure job that they could hope to hold over the course of an entire career. This mythical professional preferred to hop around from job to job, from company to company, from sector to sector, unconcerned about health insurance, a traditional pension, Social Security, or the long-term goals of an organization.

Real federal employees never resembled these mythical creatures. Real federal employees have real families, real mortgages, real concerns about the affordability of health care, and real reliance on Social Security and the federal retirement systems. They have real dedication to public service, to our nation's defense, to the safety of our food supply, workplaces, air, water, and highways. They have real devotion and experience in operating federal corrections institutions, in housing the homeless, in making sure veterans receive the health care and other benefits to which they are entitled, in getting Social Security checks out every month. These are not duties taken lightly, and they are not concerns that are assuaged with one-time payment of bonuses.

The idea of authorizing bonuses of up to 100% of salary over four years may help recruit an information technology specialist to spend four years in a federal agency, but it will not solve the problem of building in-house federal agency IT infrastructure, institutional knowledge, and dedication to the public interest. Federal agencies need to recruit the next generation of career civil servants, and they need to retain those who might impart to this next generation the institutional knowledge they have accumulated. Bonus payments cannot achieve such a task.

Bonuses of any size are not a replacement for competitive salaries and benefits. Federal salaries remain 22% behind private sector salaries despite the fact that under FEPCA federal salaries were supposed to have achieved comparability

this year. Health insurance under the Federal Employees Health Benefits Program (FEHBP) is subsidized at an average of between 70% and 72%, while large private employers and state governments pay anywhere from 80% to 100% for their employees. Recruitment and retention bonuses cannot make up for these facts.

Beyond the fact that AFGE does not consider this expanded bonus-payment authority a promising component of the answer to the human capital crisis, there are further problems with the proposal that must be addressed. Although the draft proposal is not altogether clear, it appears that the bonuses would be used only for "difficult to fill" positions. In S. 1612, OPM would be given authority to supercede the 100% -of-salary-over-four-years limit, both in terms of deciding eligibility and altering the service requirements.

So-called "retention" bonuses could be paid to employees considering leaving federal employment or leaving one federal job for another. Only white collar federal employees paid under the General Schedule (GS) would be eligible for the bonuses, even though the human capital crisis is equally acute for those in the skilled trades who are paid under the Federal Wage System (FWS).

AFGE has no opposition to the uses of bonuses and other financial incentives to reward federal employees, but they should never be viewed or used as a substitute for a fully-funded and fully-implemented pay comparability plan. It is

clear that the Administration considers this expanded authority to pay large recruitment, retention, and relocation bonuses as a way to mitigate the effects of a continued refusal to abide by FEPCA.

Indeed, FEPCA already includes broad authority for the payment of recruitment and retention bonuses, and the use of this authority by agencies is not at all contingent on implementation of FEPCA's other provisions. According to a comprehensive study published by OPM in 1999, less than 1% of eligible federal employees had ever received bonuses under FEPCA's authority. The main reason for the failure to use existing authority, as reported by agency managers, was lack of funding.

The expanded authority for the payment of recruitment and retention bonuses in the Administration's Flexibility Initiative likewise fails to provide any funding for the bonuses. The draft proposal does not indicate that separate, dedicated funding for the bonuses is a part of the plan. Implicitly, the assumption appears to be that bonus payments to select individuals would be paid from existing salary accounts. That is, agencies would only be able to use the broadened authority in the draft proposal to provide bonuses if they paid for them through the elimination of jobs or the denial of other salary adjustments for those not selected for a bonus.

We cannot pretend that bonuses, especially bonuses that come at the expense of adequate staffing or adequate salaries and salary adjustments, will improve the government's ability to recruit and/or retain federal employees. Bonus payments do not count as basic pay for purposes of retirement or annual salary adjustments. If in fact they are designed to recruit for temporary positions or to recruit those with an intention to remain only a short time with an agency, it must also be said that they are not a solution to the "human capital crisis", as we understand it. The government's crisis is that it is on the verge of losing its workforce to retirement, privatization, and more lucrative offers in state and local government and the private sector. When the workforce leaves, it takes with it institutional knowledge, skill, experience, and the public sector ethos of devotion to the common good. Bonuses will not solve such a problem.

Question #2: How do these bills contribute to better management in government and its effect on attrition?

There are numerous provisions in the draft proposal that appear to be aimed at some improvement in agency management. Section 202 addresses the notorious delays in hiring decisions in the government that many point to as a serious problem in efforts to respond to the human capital crisis.

Although there are scandalous delays in filling vacancies throughout the government, it is our experience that the major problems occur at the workplace

and the local personnel office levels. The supervisor takes too much time to even ask that the vacancy be filled; unnecessary time is taken to determine what changes, if any, will be made in the duties of the vacated position; the supervisor is too busy to quickly interview the most attractive applicants; and approval to fill vacancies is often delayed because of personnel ceilings and funding shortfalls.

One provision of Section 202 of the draft proposal, as described, would tinker with parts of the process, which do not contribute heavily to the delays in filling vacancies. Instead of applicants being given numerical ratings and ranked accordingly, they would be placed in various groups and within each group people with veterans' preference would be placed above other applicants. It is doubtful that this new system would save a single day in the overall hiring process.

A different provision of Section 202 apparently would allow agencies to examine, rate, and rank candidates themselves (in contrast to obtaining certificates of rated candidates from OPM) where there is a need for expedited hiring or certain other conditions obtain. This is a tacit admission that the other proposed provision of Section 202 will not noticeably expedite hiring in general. In addition, there is no reason to believe that turning over the examining and rating responsibility to an agency would itself save any time. To a supervisor in the field, getting a list of candidates from agency headquarters is no faster than getting a list of candidates from OPM. In most cases, it will be slower, because

OPM will already have a large number of applicants who have been examined and rated, while the agency may not even begin soliciting applications until the position has become vacant.

The draft proposal also retained a troubling proposal that was part of S.1603 regarding the number of days a federal employee would have after a notice of termination. The proposed reduction from a 30-day notice period to a 15-day notice period is not a management improvement. It does not make managers more accountable for the responsibility of removing poor performers, but it does impose a hardship on employees who may have been unfairly terminated.

From the perspective of the employee who has received the termination notice, however, the reduction in the notice period is quite significant. In cases where the termination will be challenged, and in fact is unjustified, the proposed reduction to 15 days would pose a serious hardship. A wrongly terminated employee needs adequate time to collect information and documentation to protest the termination, and that is virtually impossible to do once he or she has been barred from the workplace. Having up to 30 days is also necessary to allow the worker the opportunity to plan for impending unemployment and the hardships that will impose upon him or herself and his or her family.

The proposed reduction thus has no management-improvement justification. It provides no more incentive than currently exists for managers to meet their

responsibilities to address poor performance. Further, it deprives employees of a reasonable period of time to respond to possible unjustified management actions and to plan for a period of unemployment. AFGE urges the deletion of Section 211 from the draft proposal.

Question #3: How do these bills contribute to an employee friendly environment? How do the proposals make the federal government more attractive to current and future government employees?

We are concerned that the draft proposals, depending on how they are implemented, may not offer any improvement in the “friendliness” or “attractiveness” of the federal work environment for the vast majority of current or future federal employees. The proposals regarding buyouts, critical pay authority, bonuses, termination notices, enhanced leave accrual, and raising SES pay caps and repealing SES recertification requirements appear to offer far more to upper management, than to rank and file federal workers. Although AFGE recognizes the legitimacy of many of these provisions, particularly with regard to critical pay authority (if fully-funded), and raising SES pay caps (if fully-funded), we are doubtful that they would have any significant positive impact on the federal employees we represent.

Section 402 would allow the head of an agency to extend to some new federal employees enhanced leave accrual. AFGE supports the concept of allowing

newly hired federal employees with considerable non-federal work experience to accrue leave at eight hours per biweekly pay period, but we are concerned about the discretion given to management to decide what type of non-federal service will qualify for this benefit. We believe that this benefit should be extended to federal workers in both the white collar and blue collar workforces, and not be reserved for managers or occupations deemed "hard to fill."

Question #4: How can recruitment and retention concerns be balanced with the Administration's goals for competitive sourcing?

The short answer to this question is that unless the Administration rescinds its privatization quotas, the government's recruitment and retention problems will only worsen. The Department of Defense has recently acknowledged that its plan is to automatically replace retiring federal employees with contractor employees. As agencies are forced to privatize half of the so-called "commercial" jobs on their FAIR Act lists, they will increasingly follow DoD's example.

The Administration's privatization quotas should not be referred to as a *competitive* sourcing initiative. The Office of Management and Budget (OMB) has directed all Executive Branch agencies to "compete or convert" 15% of jobs on the FAIR Act lists by the end of 2002, and a total of 50% by the end of FY 2004. Agencies must submit their plans to carry out these quotas to OMB for

approval. Thus far, while OMB continues its public insistence that the quotas are about competition and not about privatization, plans are being approved that meet the targets with direct conversion, i.e. contracting out without competition, of up to half of the quotas. Thus the Administration's quota policy may mean that up to 212,500 of the 425,000 jobs on the FAIR Act quota/hit list will be contracted out without competition.

AFGE does not oppose competitive sourcing. In fact, our position is that federal agencies should be permitted to contract out commercial work, but only if it can be shown through public-private competition to be less costly to taxpayers than continued in house performance. Only through public-private competitions can taxpayers learn whether it is in their interests to have the government's work that is commercial in nature performed in house by federal employees, or contracted out to the private sector.

The so-called competitive sourcing initiative and the human capital crisis are two sides of the same coin. The federal government's human capital crisis has been almost entirely self-inflicted. The acceleration in contracting out without public private competition sends an unmistakable message to current and prospective federal employees: *The government does not want you, it does not think it should employ you, it is trying to find a contractor to take you off its employment rolls. The government does not care if you are more efficient, effective, and dedicated than any contractor would or could be, it does not care if you are less*

costly, if you have no conflicts of interest – it just wants to give your job to a contractor regardless of cost, regardless of conflicts of interest. The job is going out the door without giving you even the opportunity to compete.

Question #5: How can the issue of compensation gaps between the public and private sector be addressed?

As I have mentioned above, there is no way to avoid the fact that federal salaries are inadequate and that the FEHBP is inferior. Solving the human capital crisis requires paying higher federal salaries and improving both the affordability and quality of FEHBP plans. If FEPCA had been fully implemented over the last decade, federal salaries would be, on average, 10% to 15% higher than they are today. Congress and the Administration must make a monetary commitment to improving compensation for all federal employees.

Conclusion

AFGE has its own recommendations for civil service reform that we believe are necessary for a true and lasting solution to the human capital crisis. The components of this “package” are S.1152, the Truthfulness, Responsibility, Accountability in Contracting Act, to make sure that contracting out only occurs when public-private competitions show that it is in the public interest; S.1982, Senator Barbara Mikulski’s bill to improve the funding formula for the FEHBP to

80% paid by the employer and 20% by the enrollee, to more closely resemble the financing provided by large private and public employers, full implementation of FEPCA so that the federal workforce receives pay comparability and economic stability, and finally, a restoration of the partnership so that labor and management can work together cooperatively in federal agencies to make federal agencies even more efficient, effective, and reliable.

We commend the Committee for taking the issue of the human capital crisis so seriously, and we look forward to continuing to work with you to fashion solutions to the government's growing problems with recruitment and retention. I would be happy to answer any questions you may have.



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TESTIMONY of

CAROL A. BONOSARO

PRESIDENT, SENIOR EXECUTIVES ASSOCIATION

Mr. Chairman, I am testifying on behalf of the Senior Executives Association, a professional association representing the interests of career Senior Executives and those in equivalent pay systems. We appreciate this opportunity to submit our testimony to the Committee, which is to be commended for its concern for the future of the Federal work force. Both Senator Akaka and Senator Voinovich have our gratitude for their commitment to human capital issues and determination to develop viable solutions to the coming crisis.

We believe it is critical that the Congress and the Administration consider and respond to the full range of human capital issues and reject continuation of piecemeal approaches. These agency and occupation-based "fixes" are fragmenting the civil service, creating a crazy quilt of personnel and pay systems across the government without addressing fundamental issues affecting the workforce.

At the executive level in particular, pay compression has clearly contributed to the pressure for separate systems. In addition, however, we have heard over and over from agency officials of the need for additional executive positions, to be independent of the OPM allocation process. During the Clinton administration, the career Senior Executive Service was downsized by almost 20% (from 7387 positions in 1993 to 5971 positions in 2000). We believe that the top ranks were thinned unnecessarily - the ratio of Senior Executive positions to the rest of the Federal work force, after all, is slight - and that the number of positions in the executive corps should be increased to enable agencies to meet their missions.

Further, the use of existing flexibilities and authorities is limited by both a lack of funding and a lack of any effective mechanism for agencies to share successful approaches which utilize such authorities. Therefore, the pressure for "designer" systems will continue unabated and new authorities will continue to proliferate unless and until the underlying problems are addressed through a coherent, government-wide solution which provides overarching principles, flexibility within limits, and some bottom line of uniformity.

As you know, while the retirement eligibility of the full Federal workforce is high, projections for anticipated retirements of career Senior Executives are even higher. In 2000, the General Accounting Office projected that, by fiscal year 2005, fully 70% of all Senior Executives will be eligible to retire, and OPM estimated that, of the 6000 career SES members, about 45% would retire during f.y.99 through f.y.05.

At this time in our country's history, especially, it behooves us to ensure that we 1) retain as many of these highly capable, experienced and accomplished executives as possible, and 2) develop and have in place the necessary talent to succeed those who do retire. Yet, right now we are driving these executives out - and discouraging those middle managers on the executive track - because of a failure to address the pay compression which has reached critical proportions within the corps and which has been a strong contributor to the piecemeal "fixes" referred to earlier.

SEA welcomes the provision (Sec. 302) of S. 1603 which would raise the cap on total annual compensation for Senior Executives and their equivalents. As the section-by-section

analysis notes, however, this is a technical change that would enable Senior Executives to promptly receive awards and bonuses, but which would not, in and of itself, affect their compensation.

Our comments on S. 1603 follow.

Title I. Chief Human Capital Officers

The Association supports the creation of these positions. Clearly, such positions have become the preferred method for ensuring agency and departmental focus on particular functions, witness the creation of Chief Financial Officer and Chief Information Officer positions. While some have criticized the concept of the Chief Human Capital Officer (CHCO) as representing a "super personnel officer," we differ and believe that creation of this position recognizes the importance of human capital and will provide a focal point to ensure adequate attention to this critical resource.

We do, however, disagree with leaving open to agencies the option to designate political appointees to hold these positions. Rather, we believe that these should be career Senior Executive Service positions. That is so because this function, human resources, is so integral to the maintenance of the merit system and requires continuity of leadership. The designation of a political appointee as CHCO makes far more likely an ever-changing emphasis in the approach to human capital issues, particularly with the relatively short tenures of appointees.

Title II. Section 205. Streamlined Critical Pay Authority

While the Association does not object to shifting the oversight for critical pay positions from OMB to OPM, we are in strong opposition to any substantial expansion of the use of this authority throughout the Federal government. Our reasons are as follows.

First, reliance on this authority continues the piecemeal attack on the pay compression problem, which is most severe in the SES ranks. Pay compression has reached such critical proportions that it threatens to destroy the Senior Executive Service.

After being frozen five of the last nine years, the pay cap has filtered down through the ranks of the SES and approximately 70% of all career executives receive the same pay. ES-4, ES-5, and ES-6 (the top three ranks) are now all capped at Executive Level III (the statutory maximum for their base plus locality pay) in all 32 localities. Likewise, ES-3 is now capped in 15 localities. In Houston and San Francisco, even ES-2 is capped and receives the same pay as the top of the SES.

This situation is unfair and would be unthinkable in any private sector corporation, yet it is tolerated by both the Administration and Congress. It must be rectified with a legislative solution. The bills, H.R. 1824 and S. 1129 (sponsored by Representative Davis and Senator Warner, respectively), are at least a beginning. They would raise the statutory maximum for both base pay and locality pay for the SES and equivalent executive systems, such as Senior Level and Senior Technical.

To understand the human impact of this problem, we urge the Committee to review in Their Own Words: The Impact of Executive Pay Compression, a sobering compilation by SEA of statements by career executives throughout government. One Internal Revenue Service executive's words sum up the problem:

"I love and believe in the mission of government and the importance of having bright, caring and responsible people serving that mission. As an executive nearing retirement eligibility and feeling very burned out by pay stagnation and the compromises it has forced on those I love, I am trying desperately to do the succession planning my office

will need to manage in the years to come. I never thought that I would be considering leaving on (my retirement) eligibility (date), but now I project I will. I feel I have no choice if I am to provide adequately for my family. I have never been so disheartened at the possibilities - my best and brightest repeatedly advise me that they see no future for themselves in government despite their love for it and commitment to it."

Extending critical pay positions throughout government does nothing to address this problem. To the contrary, it removes any impetus which does exist for addressing pay compression by focusing on bringing higher priced talent in from outside government to deal with the particular problem(s) of the day. Thus, on the one hand, we will continue to drive experienced, talented executives out of government by our refusal to address pay compression and, on the other hand, we will recruit higher paid executives from outside government. We fail to see any justification for this solution and urge, instead, addressing the overall executive pay problem.

It is important to note that the current system, in fact, encourages early or immediate retirement by eligible Senior Executives. From 1994 to 2001, the average annual COLA adjustment on retirement annuities was 2.5 percent, higher than the average SES pay increase of 1 percent over that same time frame.

To understand how government executives compare with their private sector peers, SEA contracted with the Hay Group from 1993 to 1996 to conduct annual studies comparing compensation of SES positions with that of comparable positions in private industry. A sample of SES positions was selected (across a range of agencies, SES pay rates, and functions) from Hay's data bases of SES evaluated positions. Using Hay's job content evaluation points, SES positions were compared to their precise counterparts which Hay had evaluated in a wide variety of industrial organizations and service industries, as well as in some nonprofit organizations and local governments.

Results from the 1996 study, Comparative Analysis of SES Base Salary, Total Annual Cash Compensation, Benefits and Total Remuneration, were as follows: Average SES total cash compensation (including bonuses) ranged from 42% to 68% of that of average industry total cash compensation for jobs of the same difficulty. Put another way, SES total compensation for these positions would have to be increased by a range of from 46% to 137% to attain comparability with private industry.

Six years later, we find ourselves in the peculiar position of opposing any substantial use of an authority which places a premium on executives from the private sector - but leaves Federal executives to languish with no relief. One would have thought that the many critical contributions made by these executives on and since September 11 would have been worth more.

We wish to stress, however, that the Association has never argued that Federal executive compensation should be equal to that of the private sector. All career executives recognize that there is a price to be paid for public service. At present, however, that price is too high and represents an unreasonable sacrifice. Rather, there should be a reasonable relationship between the two sectors. If, for example, there were a "discount" of 20% for Federal service, using the 1996 Hay study results, SES pay, instead of being capped at \$ 138,200, would have a minimum floor of \$ 161,400.

This leads inevitably to the second reason we oppose expanded use of critical pay authority and that is the inevitable impact of such proposals on morale. We have been too quick to dismiss morale questions, yet can we honestly expect that career executives would not feel

resentment working side by side with (or, worse yet, supervising) those executives brought in under critical pay authority, who make more than they do? The message we send to federally "grown" executives is that they are worth less than those hired from outside government, that they have erred in devoting their careers to public service. Further, as more and more executives are covered by FERS, and not the "golden handcuffs" of CSRS, there is less incentive to remain in government in such conditions as exist at present.

Recently, some have suggested that addressing executive pay compression must be linked to dealing with performance issues. While SEA has no argument with holding executives to a high performance standard, SES pay compression was not caused by poor performance in the SES ranks, and to imply that the pay problem can only be fixed if we are willing to first address performance is a non sequitur and is unjust.

Third, there is a paradox upon which we are compelled to comment. Ever since the establishment of the Senior Executive Service by the Civil Service Reform Act of 1978, OPM and others have regularly bemoaned the failure of the SES to produce a corps of generalist executives - and have regularly suggested the removal from the SES of executives with technical or professional skills and competencies. Yet use of the critical pay authority rewards exactly such executives, PROVIDED they are recruited from the private sector. What are Senior Executives to make of this? At the least, they are damned if they do, and damned if they don't.

Fourth, substantial use of critical pay authority has been "tested" in only one agency, the Internal Revenue Service. While IRS leadership is enthusiastic about the authority, we believe the results are not entirely positive.

The information which follows is drawn from a report, "Is the IRS Using its Critical Pay Authority Wisely?" by Tax Analysts. We are not aware that any of the factual material presented in this report has been challenged by the agency.

- It is extremely doubtful that the additional pay afforded by the authority was compelling for a good number of the hires. Nearly 40% either have a pension (approximately 8 had reached mandatory retirement age with their prior employers) or received a substantial severance package before coming to the IRS. While the additional pay in and of itself may not have been compelling, however, apparently it served as an attraction of another sort. One IRS official has noted that many executives hired under the critical pay authority viewed as important the status afforded by the fact that their pay was equivalent to that of the Vice President.

For those who took a pay cut, public service - and their chance to leave a mark on the agency - could reasonably be assumed to have been a sufficiently substantial lure (and from all the evidence to date, September 11 has only heightened the desire of many to perform public service). Indeed, apparently it is not unusual, for example, for private attorneys to "take time off" from their lucrative law firm partnerships to spend a few years at the Chief Counsel's office" because this can be a valuable investment in their careers. This continues to be true in the absence of authority to offer critical pay positions in that office.

Some of those hired under the authority received substantial raises. Thus, it has been difficult to determine the correlation between the prior salaries of the critical pay hires and their current pay and, indeed, why these individuals were not hired as non-career, limited term Senior Executives.

- Only nine of the positions targeted for critical pay are or will be directly involved in the technology modernization area, the ostensible category for which the authority was granted. Six of those hired have communications backgrounds, presumably not a skill in short supply in Washington.

- Of the nine persons who have resigned from critical pay positions, five had technology modernization positions. "The top IRS career people in the modernization area....since 1997, have reported to three different chief information officers....In between CIOs, the careerists were in charge of modernization." The question raised by the Tax Analyst piece, understandably, was "how many knowledge-sharing opportunities exist if most critical pay hires don't stay around long enough to understand how the IRS works?"

- Twenty three of the current and former critical pay hires make more than the Secretary of the Treasury. The Chief of Criminal Investigation is paid substantially more than any other law enforcement person in the government, including the head of the FBI, the Under Secretary of the Treasury for enforcement, and the heads of the criminal and tax divisions at the Department of Justice. Since the Federal government is the repository of the best law enforcement professionals in the world, the need for such a critical pay position defies logic.

- Even internally, within the IRS, it is difficult to understand on what basis the quite extraordinary legal talent could be lured to the Chief Counsel's office without critical pay, while it was viewed as necessary to offer private sector attorneys critical pay positions in other IRS operating areas. Can any reasonable person argue that the private sector has a greater knowledge of Federal tax law?

While we recognize that the Commissioner has exercised his authority to identify the critical needs for IRS personnel, we also believe that the authority has not been an unequivocal success. Until this experience receives careful study, and some assessment is made of whether it, in fact, resulted in increased effectiveness of the agency, we are unwilling to support any substantial use in other agencies.

Indeed, two circumstances have made the IRS a singular example of use of such authority. First, the critical pay authority was granted IRS as part of the IRS Restructuring and Reform Act, which required substantial changes at the agency. Such circumstances are few and far between. Hal G. Rainey, author of A Weapon in the War for Talent: Using Special Authorities to Recruit Crucial Personnel, recommends that special hiring authorities (for executives and professionals) should be implemented only as part of a "broader strategy for transformation of an agency" and with fairly stringent implementation steps.

Second, the Commissioner is the only political appointee in the agency, a very different circumstance than exists in other agencies. Thus, one might view the critical pay positions as having created a corps of non-career Senior Executives in the agency, albeit at higher pay than that of career SES. Nonetheless, other agencies and departments enjoy a substantial number of appointed positions, which can be used (and presumably are used) to bring in an outside-government perspective.

Fourth, the belief that merely recruiting an individual from the private sector - who ostensibly is skilled at maximizing profits - will result in a superior performance in government is fallacious. We note there had been no lack of private sector executives consulting with the IRS on IT modernization over the years. In fact, it can be argued that the biggest failures in government have often come as a result of advice from expert consultants or work by contractors. Private sector expertise is not a magical panacea for whatever ills exist in government. The private sector itself has harbored at least as many failures as government.

Finally, during an American University forum held to consider the Rainey report, an IRS official in attendance noted that the critical pay authority is so flexible that it could easily be subject to cronyism and other abuse. Although that official did not suggest that had been the case at IRS (and neither do we so suggest), the Association is concerned about precisely that

possibility. At a minimum we recommend that OPM set strict criteria for granting use of the critical pay authority.

On other provisions of S. 1603, SEA has comments and suggested technical amendments as follows:

Section 204 calls for a phased retirement study and later, requires the Office of Personnel Management to provide statutory recommendations on the development of a government-wide phased retirement authority. With the impending retirement of so many career executives, we cannot stress enough that this authority should be extended throughout government to aid in succession planning. Government-wide phased retirement for career members of the Senior Executive Service (SES) and for Senior Level and Senior Technical personnel would allow agencies the flexibility to re-employ, on a full- or part-time basis, senior managers and technical personnel who would experience no reduction in annuity. This would ensure an adequate transition period between the employee's retirement and the hiring of a permanent replacement.

Members of the SES and SLs and STs are highly experienced executives and technical experts who possess historical knowledge of their agencies' operations and procedures and have demonstrated the ability to lead their agencies' programs. As noted previously, by the year 2005, 71 percent of current SES employees will be eligible to retire, and 45 percent are expected to retire. Thus, over the next four years, the Federal government can expect to lose up to one-half of its career executives and Senior Level and Senior Technical employees through retirement. The loss of such a significant number of the government's career leadership is a serious problem for many agencies, since they rely on their institutional memories and capabilities to satisfy their mission requirements.

Phased retirement has worked in the past. Concern about the loss of such employees prompted the IRS to seek relief from the Office of Personnel Management by requesting a waiver from the retirement offset restrictions so that the IRS could re-employ annuitants with unusually high technical qualifications to support critical mission requirements. In addition, the Department of Defense sought and received statutory relief to the retirement offset for the re-employment of regular military officers to the civil service. In light of the impending retirement boom, other agencies need the same flexibility.

Although SEA supports this provision, we raise the concern that it addresses future, but not imminent, needs. Because retirements are happening now, aids for succession planning need to be available now. Therefore, individual agencies will likely need phased retirement authority long before the phased retirement study is completed and OPM has submitted recommendations for implementation government-wide. In light of this potential need, SEA requests that nothing in this provision be construed to prevent OPM from approving agency's requests on a case-by-case basis, as OPM did for the IRS, pending the outcome of OPM's study.

SEA supports Section 206, the provision calling for expedited approval for SES positions. However, because it can be difficult to convene Qualification Review Boards (QRBs) during holiday periods, SEA recommends amending the bill to give OPM 25 working days to make a decision after receipt of the request, as opposed to the 30 days currently specified.

Although the QRB process has been cited by some agencies as contributing to substantial delays in hiring Senior Executives, on average, the agency staffing process to fill an SES position takes 188 calendar days, whereas, on average, the QRB process (from the date OPM receives the case to the final QRB decision) takes 17 days. Irrespective of the length of the process, however, it is critical that we maintain independent QRBs, administered by OPM, to provide a counter-check to any possible politicization of the SES.

The Association supports Section 302, repeal of recertification requirements of Senior Executives. To our knowledge, virtually all agencies agree that recertification has proved to be of little value in removing unsuccessful executives and is really little more than an exercise in paperwork. While recertification was intended to be an effective process for dealing with the problem of non-performers, experience has shown that it has not been a significant help in addressing this concern.

SEA supports Section 401, the provision that makes employee training a priority. Requiring a separate line item on training in agencies' budgets goes far to ensure that agencies will focus on devoting resources to this important component of managing human capital. Too often, employees' needs in this area go unmet, and this causes the agency and its programs to suffer. Attention to training of all types and for employees at all levels allows for an influx of ideas, methods, and skills needed to more effectively run programs, thus reinvigorating the agency. SEA specifically would note that executives, in particular, suffer from a lack of resources devoted to training. When funds are scarce, executives often use limited training budgets for subordinate employees rather than earmarking funds for their own more expensive training. Because executives need to keep on top of current ideas and practices in running agencies, including being trained in the latest technologies, the void left by inadequate training resources reverberates throughout the agency.

SEA also supports Section 402, relating to accrual of leave for newly hired Federal employees with qualified experience. This annual leave provision is clearly intended to resolve the problem of outside candidates entering government at the executive level with no immediately available leave. We are aware that this has presented problems with regard to some outside hires. Providing an 8-hour annual leave accrual for all SES appointees is of greatest benefit to outside candidates (including political appointees to non-career SES positions), since those promoted to the SES from within would undoubtedly already be at that level of leave accrual.



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After being frozen five of the last nine years, Executive Schedule pay, including pay of members of Congress, is lagging far behind annual General Schedule raises (see Attachment 1).

* If the Executive Schedule had mirrored the GS national comparability raise since 1994, EL-II (the pay rate of members of Congress) would receive \$165,661 in 2002 (as opposed to \$150,000)

* If, in addition, the Executive Schedule received the D.C. area locality adjustment, EL-II (the pay rate of members of Congress) would receive \$184,678 in 2002.

Historically, Executive Schedule raises have come in response to agency reports of hard-to-fill critical vacancies and departures of highly accomplished staff (particularly in the scientific arena), both due to inadequate pay. This justification is disappearing because a number of agencies have sought, and been given by Congress, the authority to hire and compensate their executives without regard to Title 5 or to the statutory cap on Senior Executive Service pay.

* In 1998, the Internal Revenue Service was given the authority by Congress for up to 40 "outside" hires, with pay rates up to the Vice President's salary (\$192,600).

* The NIH Senior Biomedical Research Service, established by Congress in 1990, currently has 130 members and a salary range up to Executive Level I (\$166,700).

* FAA, granted total exemption from Title 5 in 1996, plans to pay their executives up to Executive Level II (\$150,000) with incentive programs of no fixed cap.

Due to Executive Schedule freezes, Senior Executive Service pay is highly compressed.

* 23% of SESers are ES-5s and 6s and are paid the same base pay, \$130,000 (see Attachment 1).

* 36% of SESers are ES-4s, also with a base salary of \$130,000. Therefore, 59% of the corps is receiving the same base pay (see Attachment 1).

* In 1994, total pay at the ES-6 level was capped in one locality. As a result of years of pay freezes, the pay cap has filtered down the ranks. In 2002, ES-4s, 5s, and 6s in all 32 localities have their pay capped at Executive Level III (\$138,200). Likewise, ES-3s in fifteen localities will be capped. Therefore, an ES-3 in Boston, Chicago, Cincinnati, Denver, Detroit, Hartford, Houston, Los Angeles, Miami, New York, Philadelphia, Sacramento, San Diego, San Francisco, and Seattle will receive the same salary as his/her ES-6 supervisor (see Attachment 2). In Houston and San Francisco, even an ES-2 receives the same salary as his/her supervisor.

Attachment #1

	1994	1995	1996	1997	1998	1999	2000	2001	2002
	PAV FROZEN	PAV FROZEN	PAV FROZEN	PAV FROZEN	CAP RAISED	PAY FROZEN	CAP RAISED	CAP RAISED	CAP RAISED
EL-II	\$133,600	\$133,600	\$133,600	\$133,600	\$136,700	\$136,700	\$141,300	\$145,100	\$150,000
GS national comp. increase	0%*	2.0%	2.0%	2.3%	2.3%	3.1%	3.8%	2.7%	3.6%
EL-II, if given GS nat'l comp. increase	\$133,600	\$136,300	\$139,000	\$142,200	\$145,500	\$150,000	\$155,700	\$159,904	\$165,661
EL-II, if given DC locality increase)	\$139,300 (4.23%)	\$143,800 (3.22%)	\$147,500 (2.54%)	\$152,400 (3.33%)	\$156,100 (2.45%)	\$161,800 (3.68%)	\$169,800 (4.94%)	\$176,269 (3.81%)	\$184,677 (4.77%)

SES Base Pay

	1994	1995	1996	1997	1998	1999	2000	2001	2002	Cumul. percent increase	Avg. annual % incr.
ES-6	\$115,700	\$115,700	\$115,700	\$115,700	\$118,400	\$118,400	\$122,400	\$125,700	\$130,000	12.36	1.37
ES-5	\$111,800	\$111,800	\$114,000	\$115,700	\$118,400	\$118,400	\$122,400	\$125,700	\$130,000	14.00	1.56
ES-4	\$107,300	\$107,300	\$109,400	\$111,900	\$114,500	\$118,000	\$122,200	\$125,500	\$129,800	20.10	2.23
GS nat'l comp. increase	0%*	2.0%	2.0%	2.3%	2.3%	3.1%	3.8%	2.7%	3.6%	23.98	2.66

Board of Contract Appeals Judges (BCA) Base Pay

	1994	1995	1996	1997	1998	1999	2000	2001	2002	Cum. % increase	Avg. annual % inc.
Chair	\$115,700	\$115,700	\$115,700	\$115,700	\$118,400	\$118,400	\$122,400	\$125,700	\$130,000	12.36	1.37%
V-Chair	\$112,229	\$112,229	\$112,229	\$112,229	\$114,848	\$114,848	\$118,728	\$121,929	\$126,100	11%	1.2%
Other	\$108,758	\$108,758	\$108,758	\$108,758	\$111,296	\$111,296	\$115,056	\$118,158	\$122,200	11%	1.2%

* Although no national comparability raise was given, the minimum locality raise was 3.09%.

02/13/02

Attachment #2
SES Pay: Number of Localities at Pay Cap (EL-10)

	1994	1995	1996	1997	1998	1999	2000	2001	2002
ES-6	1	7	10	18	21	27	32	32	32
ES-5			4	18	21	27	32	32	32
ES-4				2	3	22	32	32	32
ES-3						2	4	8	15
ES-2									2

Localities At Pay Cap (EL-III - \$138,200) In 2002

	ES-2	ES-3	ES-4	ES-5	ES-6
Atlanta			CAPPED	CAPPED	CAPPED
Boston		CAPPED	CAPPED	CAPPED	CAPPED
Chicago			CAPPED	CAPPED	CAPPED
Cincinnati		CAPPED		CAPPED	CAPPED
Cleveland			CAPPED	CAPPED	CAPPED
Columbus			CAPPED	CAPPED	CAPPED
Dallas			CAPPED	CAPPED	CAPPED
Dayton			CAPPED	CAPPED	CAPPED
Denver		CAPPED	CAPPED	CAPPED	CAPPED
Detroit		CAPPED	CAPPED	CAPPED	CAPPED
Hartford		CAPPED	CAPPED	CAPPED	CAPPED
Houston		CAPPED	CAPPED	CAPPED	CAPPED
Kansas City	CAPPED		CAPPED	CAPPED	CAPPED
Los Angeles		CAPPED	CAPPED	CAPPED	CAPPED
Miami		CAPPED	CAPPED	CAPPED	CAPPED
Milwaukee			CAPPED	CAPPED	CAPPED
New York		CAPPED	CAPPED	CAPPED	CAPPED
Minneapolis			CAPPED	CAPPED	CAPPED
Orlando			CAPPED	CAPPED	CAPPED
Philadelphia		CAPPED		CAPPED	CAPPED
Pittsburgh			CAPPED	CAPPED	CAPPED
Portland			CAPPED	CAPPED	CAPPED
Richmond			CAPPED	CAPPED	CAPPED
Sacramento		CAPPED	CAPPED	CAPPED	CAPPED
San Diego		CAPPED	CAPPED	CAPPED	CAPPED
San Francisco	CAPPED		CAPPED	CAPPED	CAPPED
Seattle		CAPPED	CAPPED	CAPPED	CAPPED
Washington, DC			CAPPED	CAPPED	CAPPED



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IN THEIR OWN WORDS: THE IMPACT OF EXECUTIVE PAY COMPRESSION

"I love and believe in the mission of government and the importance of having bright, caring and responsible people serving that mission. As an Executive nearing retirement eligibility and feeling very burned out by pay stagnation and the compromises it has forced on those I love, I am trying desperately to do the succession planning my office will need to manage in the years to come. I never thought that I would be considering leaving on [my retirement] eligibility [date] but now I project I will. I feel I have no choice if I am to provide adequately for my family. I have never been so disheartened at the possibilities--my best and brightest repeatedly advise me that they see no future for themselves in government despite their love for it and commitment to it."

... Senior Executive, Internal Revenue Service

"I have seen offers between 50 and 100K higher than I make in federal service. In the next three years I will make the transition. This will be the point where "God and country" will no longer make up the pay differential."

... Senior Executive, Department of the Navy

"There is no equity in pay at this point, just a commitment to service that is wearing very thin ... Thank God the patients and employees remain the focus of my career ... at this moment in time."

... Senior Executive, Veterans Affairs

"I leave after 37 1/2 years because I want to cut back, because our pay is a joke and because I am frustrated overall with our government's treatment of its workforce. I have a strong opinion that, unless we reverse this trend very quickly, we will become an employer of last resort. And in my business we are making things more technically complex with lots of great technology. But someone thinks we can get the talented young people needed to make it happen on salaries that are a joke in comparison to our friends right outside the gate."

... Senior Executive, Department of the Army, Tank-Automotive & Armaments Command

We hear all these stories about the ratio of CEO salaries to that of workers and how that ratio has grown substantially over the last 20 years. The opposite is true in the federal government.

... Senior Executive, Railroad Retirement Board

Note: On July 30, 2001, the Association e-mailed its members of the career senior executive corps for whom it had e-mail addresses, requesting information on the effects of pay compression. The following are excerpts from the responses we received, also by e-mail, within the following week.

I. CAREER EXECUTIVES WHO HAVE LEFT GOVERNMENT FOR PRIVATE SECTOR JOBS

Former ES-4, Customs Service

" When I retired on January 29, 2000 I was an ES level 4 earning approximately \$130,000. I have been since retirement a Principal with ...[a Big Five Accounting Firm]. As such I earn approximately \$700,000 per annum, but with few benefits. Pay compression as well as [not] knowing what

to expect played a significant role in my decision to retire and [I] do not regret the decision for obvious reasons."

Former ES-4, Department of Commerce

"I retired in January 2000 as an ES-4, making about \$125K as the Deputy General Counsel of ... supervising 45 to 50 attorneys I had more than 32 years of federal service and 21 years of that in the career SES. I received SES bonuses or a promotion every year but one and I also received the Vice President's Hammer award for improving

I am now serving "of counsel" with the DC office of a ... law firm. **After a year of building my practice, I will easily exceed my highest Federal salary. My practice should gross \$300K in just my second year**, and I can expect to pocket at least half of that after my firm pays the rent, the bar dues, continuing legal education, and malpractice insurance. They have also paid for my admission to the DC Court of Appeals and several Federal district courts.

Pay compression probably helped me decide to leave the government as soon as I became eligible, but for a reason that might not have occurred to you. With pay compression, the difference between ES-4 and ES-6 was chump change. I turned down many promotions to stay in ES-4 so that I would not have the post employment restrictions applicable to senior employees."

Former ES-5, Department of Justice

This former Deputy Assistant Attorney General left his position as a Chief Information Officer. He had served for 18 years as a supergrade and then an SES, and states he left to make a change and also to earn more money. At the time of leaving he was earning \$118,000. He is currently **President of his own firm, earning \$200,000 per year, plus stock.**

Former ES-4, Department of the Air Force

"I left in May 1997 at the moment of eligibility because I knew I would be capped and I resented the pay scale that we faced. I have been working part time consulting and **make more than I would have if I stayed in and continued working 60 hours a week. And I am having more fun -- and not at 60 hours a week! I feel sorry for the government executives who labor so tirelessly for their country and are paid at so low a scale.**"

Former Administrative Patent Judge, Department of Commerce

This former Administrative Patent Judge left federal service in 1999, after 33 years, to "start another career and build a nest egg." He had earned an incentive award every year, and, at the time of leaving, was earning approximately

\$125,000 per year. He states that "the pay compression was one of the reasons as to why I retired. I realized that my counterparts in the private sector who were doing similar work were being paid at a much higher rate." He is currently an attorney in a private patent law firm, **earning a yearly salary of \$200,000, with benefits such as life and disability insurance provided at no cost.**

Former ES-4, Department of the Air Force

Prior to retiring, I had received both the Meritorious and Distinguished ranks. My last 15+ years in the USAF were as an SES.

I am currently a consultant earning three times my former hourly rate, have never looked for work and managed to average 12 weeks of work per year, a rate I have no desire to exceed. I have been offered executive positions (at 150% of my ending salary with bonus opportunities of an additional 50% plus stock option[s]), which I have declined, to enjoy part time work.

When I saw that I could expect to remain at my then current salary with, at best, an inflation adjustment for the remainder of my service, I took the first opportunity to retire. Seeing GM -15's rapidly closing the gap in pay, loss of accumulation of annual leave and having many more responsibilities for minimum pay increase ... [were] the key factors in this decision. I had applied for "early out" each time it was offered and was not permitted to participate. When my "time was up," I retired at the first opportunity."

Former ES-4, Department of Veterans Affairs

At the time of her retirement, after 29 years of service, she was in charge of a multi-billion dollar contracting program, having received all outstanding performance appraisals as well as a number of other prestigious awards. She states she "wanted [a] new challenge, was "tired of red tape and unnecessary hassles, and "wanted better compensation ... [and] ... to prepare financially for retirement." Her salary at the time of leaving was \$123,000.

She is currently President and CEO of her own consulting company, with earnings that "could be triple" that of her former government salary. However, before starting her own consulting practice, she held positions with two private companies within four years. **My private sector compensation was about triple that [I received] when I was a[n] SES.** Examples of benefits included: companies paid for health, dental, and several hundred thousand dollars of life insurance; excellent pretax benefits; good contributions for 401K and pension plans; adequate time off; kept frequent flyer miles; no hassles about travel expenses (no per diems, etc); both companies provided food; quality of work-life choices, such as care for children, parents, etc.; company contributions to charities; time-off to help in community projects; counseling services for any

reason (just to get an objective point of view); flexible medical spending accounts; free parking; and office-provided equipment in home

Former ES-3, Department of Energy

This former executive states that he "recently [in 2001] left the SES service because of pay compression ... [and] the ability to make more money for less responsibility in the private sector." At the time of leaving, he was a Regional Manager, responsible for the marketing of more than 2000 Mw of generation from the ... Project and the operation and maintenance of over 1200 miles of the ... transmission system." He had received the Exceptional Service Award, Meritorious Service Award, [and] several achievement awards. He had been employed by the federal government for 32 years, 10 months, and his salary was \$133,700. **His new position is management consultant to the ... Power Agency, with a salary of \$125.00 per hour.**

Former ES-5, Department of Transportation

"Left government service after 34 years. Had many job offers up to \$300,000, but chose rather to work for an association, with **salary of \$160,000**, plus benefits"

Former ES-5, Department of Energy

This executive was formerly Deputy Assistant Secretary for ..., serving as the Assistant Secretary's top policy advisor He had won both the Presidential Distinguished Rank Award and the Meritorious Rank Award. He retired at 55 after 37 years to go into the private sector because of "lack of further progression opportunities, pay compression, and the fact there was little difference between retired pay [annuity] and active pay.... "

"Being at the cap, for a number of years, left little financial incentive to continue in the high pressure, increasingly political environment at the Department of Energy" He is currently self employed as a part time consultant, and his billing rate is between \$125 and \$150 per hour. "My ... [annuity], which gets full COLA's, is not much less than the capped SES pay. **I did not make a career of federal service for the pay, but it would have been nice to at least see some differentiation based on responsibility and authority. I miss the people and the sense of contributing to a very important part of our national defense, but not the frustrations.**"

Former ES-3, Department of State

This executive formerly managed 30 separate appropriations and funds, in excess of \$8 billion annually. She had received the Navy's Meritorious Civilian Award and many additional meritorious service awards, consecutive Senior

Executive performance awards, Special Act Awards, and the Secretary's Award. Her salary at the time of leaving government service was slightly under \$134,000. She left to become Executive Director of a private association in Maryland, with a salary of \$144,000. Among other benefits she receives are a 401(k) plan, a cancer insurance policy from a cafeteria-style benefits offering, and free parking.

"As a dedicated member of SEA and Executive Women in Government, I was a member of the SES for about 8 years before taking a dramatically early retirement in January 2001. With 3.5 years [to] go until retirement eligibility (even though I planned to work well into my 60s), I was offered **a job at \$10,000 more than my ES-4 salary, with the potential to grow by tens of thousands more by age 55, and then beyond.** [In my federal position,] the level of responsibility, the workload, and the hours were compensated only slightly more than that of my lower-graded ES and [GS-]15 colleagues....

Note: I also am far more in control of my schedule so that my hours are shorter, my day more focused, even though I actually have more responsibility now than I did. I have a specific budget, set personnel policies, manage a building, produce six publications, conduct an annual meeting with over 2,500 attendees, run the governance of a professional society, and tend to over 6,000 members. However, and this is a big however, **there are far more opportunities now for participation in professional and non-profit organizations, and these are looked upon favorably by my Governing Board, not as something that competes with my work, but rather complements it.**

ES-6, Department of Health and Human Services

[This executive is currently in the process of retiring.] "I may be an example of someone whose pay was compressed for several years and who is leaving the government for the private sector. As an ES-6, my pay was the same as for a 5, and recently, a 4. It was pretty clear that, in the private sector, I have the ability to get a higher base pay and 10-30% bonuses for performance. **I found that [in my federal position] I was making the same as many of my subordinates but had 3 or 4 times the span of control.** Particularly in areas where the government is expected to innovate, such as Medicare and Social Security, there is a great temptation to leave when you've lived with the frustration of pay compression. Add to that the diminished role for senior career[ists] that results from continued layering of politicals and a more flexible retirement system (no incentive to spend a career in government), and I think the erosion will continue. Recruiting for senior positions is impossible, and I have examples of that as well."

Former ES-5, Department of Energy

This executive formerly managed 1200 federal employees, and administered facilities with approximately 24,000 contractors and a federal budget of \$4.2 billion per year. He was a Presidential Meritorious Rank winner, who earned about \$133,000 when he left government in 2000 to work in the private sector. He declined to disclose his current salary, but stated that it and his benefits package are superior to his compensation when employed by the federal government.

"Yes, pay compression was a major influence in my retirement and move to the private sector decision. Aside from the "making the same salary as those who are working for me syndrome (**I was the rating official for 16 SES'ers, many of whom were earning exactly the same salary I was earning**), pay compression contributes strongly to the feeling that you have reached the end of your career progression. **Federal service isn't motivated solely by pay, but when the opportunity to leave comes along, pay compression can provide the push to make a change.**"

Former Senior Executive, Department of Defense

At the time of leaving government employment, this former executive had been in SES for ten years, and had been Principal Advisor to the Deputy Assistant Secretary of Defense for ..., as well as Principal Deputy Director of the ... Service. She had received the Presidential Rank of Meritorious Executive, 10 senior executive performance awards, and numerous other prestigious awards. Her salary was \$123,000, and she left government service in 1999 to start her own consulting company. Her current income is more than \$200,000 per year, and her business continues to grow. Among the benefits she receives are a 401(k) of 25% of salary, bonuses of 50% of profits, a company car, 4 weeks of vacation, and "time flexibility."

"[I] wanted to start [a] second career in the private sector, after almost 30 years of public service Colleagues who left previously were doing very, very well, and my pay was compressed for 4 years, so that a GS-15 was making almost as much money as ... [I], and had a lot less responsibilities and a lot fewer headaches."

II. EXECUTIVES WHO KNOW OTHER SES WHO LEFT, OR ARE ABOUT TO LEAVE, FOR JOBS IN THE PRIVATE SECTOR

ES-4, Internal Revenue Service

"I am SES and have been for over 10 years. I am level 4 and would

definitely not accept a Level 5 because of no pay increase and the post employment restrictions. I know I can earn \$180,000 [in the private sector] right now One of my subordinates is ES-2 and has been SES for less than 2 years. There is not even a \$1,000 difference in our salaries.

Eight executives have left during the past 5 years for high paying private industry jobs. They all work for PriceWaterhouse Coopers, Deloitte & Touche or Ernst & Young. All were at the pay cap at the time they left. **All (except possibly one) have salaries in the \$200,000 range.** Another SES executive who will be eligible to retire in April of 2002 already plans to leave immediately because he knows he will get more money. These folk all managed 1,000 to 2,500 people. Two had program responsibilities for 20,000+ people and budgets over \$ billion. Many others have left but I know less about their circumstances."

ES-5, General Services Administration

"Bill ... (Federal Supply Service, Associate Commissioner for Acquisition) and Bill ... (GSA's CIO) both left government for industry prior to being eligible to retire. They both got substantial increases in pay. "

ES - 3, National Institutes of Standards and Technology

"We have a serious case at NIST in It involves a capped ST who is a member of the National Academy of Sciences and a Fellow of the American Academy of Arts and Sciences....

For the past three months, the University of California, Berkeley has been vigorously pursuing him with a salary offer of about \$230 K, start up research funds of several million dollars, and continuing funds of about \$800 K per year. This would be in addition to his roughly \$40 K Federal retirement income. Our only counter is to give him a "retention bonus" which would bring his salary (for one year) from \$133 K to about \$161 K.

Of course, retirement pay does NOT benefit from the \$28 K increase. Were the ceiling raised and were bonuses included in the retirement calculation, this would be a powerful counter to the Berkeley offer.

To date, the wonderful work environment has kept this scientist (plus two colleagues who are also members of the NAS) from accepting other offers to go elsewhere, but this much larger salary plus retirement income will be hard to win against. If something could be done NOW rather than (as it may eventually be done) LATER, then we would have a financial tool to (hopefully) keep one of NIST's brightest and most highly articulate scientists.

The price of not raising the cap and not recognizing bonuses in retirement calculations will be that we will eventually lose the brightest people, with the result that there will be only survivors and no leaders...and that's a pretty poor vision of the future of Government.

I realize that this particular example involves a 3104 (ST) and not a member of the SES. Nevertheless, the SES ceiling is also the ceiling for the 3104s."

ES-4, Department of Veterans Affairs

"In the VHA several relatively young Hospital CEOs have left in the last few years and others like myself (I have moved 11 times) would not consider moving again. to be a network director without a significant pay differential between the ES 4,5, or 6 It is obvious after the Hay report that VHA executives are way behind the private sector in nearly everything related to pay and bonuses and only the CEO responsibility is the same"

ES-5, United States Marine Corps

"Two prominent SESers [who left for the private sector] come immediately to mind.

The first was ...[a] Director ... of the Marine Corps, ES-6, heading the ... Department, ... for the entire Marine corps. He had received the Presidential Rank of Distinguished Executive and at least one Meritorious Rank award. He left Federal service in February, 2001, because of pay compression, even though he loved working with the Marine Corps. He had 30 years of Federal service, but left to work for Peat Marwick, with a salary believed to be in excess of \$100 K.

The second was formerly Assistant Deputy Chief of, the head civilian on ... staff; responsible for the entire programming function within the Navy. He had received the Presidential Rank of Distinguished Executive, and the Meritorious Rank at least once. He left in approximately March of this year, because of pay. He also was an ES-6, and left to take a position paying 'big bucks' with a big-five accounting firm, believed to be Arthur Andersen."

Senior Executive, Department of Veterans Affairs

"... retired last year and took a job as the Administrator of the University Hospital at (according to rumor!) about \$250,000 per year."

ES-3, Bureau of Alcohol, Tobacco, and Firearms

Several AFT executives have left for the private sector in part due to the fact that we have fewer SES slots than we need, pay compression is severe....."

One executive, a Hispanic, left ATF for a major freight carrier where they matched his SES salary, and gave him extensive stock bonuses. **His current salary now surpasses substantially that of the Director of our organization.**

Our Deputy Director retires on July 31.....tomorrow. He will take over as director of operations for the ... [which will] ... top his current salary, give him free parking, expenses, and other benefits. He was our deputy for only 15 months. As the number 2 official at ATF he was paid the same as all other ES- 4 and above. It is only logical that he would leave for better pay in the same city with no move required and at an enhanced salary. Law enforcement personnel are a critical skill that the federal government is losing at a rate that law makers should be sensitive to. Without experienced leadership at the top, our law enforcement organizations risk a future where skills gained over a career will not be available when they are needed most."

Senior Executive, Department of Justice

" I'm a charter member of the SES and have been dedicated to public service at the Department of Justice for over 25 years. During my tenure as a supervisor, client agencies have said that my experience adds a great deal to their confidence in the representation that I and the attorneys I work with provide to them. **Although I enjoy my job immensely**, I have three children in university. **The financial burdens I face have become too great for me to stay at Justice, and I have reluctantly decided to leave and take an of counsel position with a private law firm.** I know my dilemma is shared by other senior attorneys, and I hope the SEA is able to impress upon Congress the need to boost salaries for the good of the government and the people it serves."

III. EXECUTIVES WHO HAVE RECEIVED PRIVATE SECTOR JOB OFFERS

Senior Executive at HUD

A recent report ... showed that IT executives in the Federal Government fall in the bottom 10th percentile of salaries (as compared to private industry positions.) Also, **I recently received a job offer from a Fortune 500 company for \$250K - \$350K, Chief Technology Officer for Telecommunications (a lesser position than I now encumber)....** I declined due to relocation to ... and didn't want to take a step down (responsibility-wise)."

Senior Executive, Department of the Navy

"I have been registered with an executive placement firm for a couple of years now. I did this for a couple of reasons but foremost is to see how competitive I am in the private sector. To date **I have seen offers between 50 and 100K higher than I make in federal service. In the next three years I will make the transition. I am dedicated to my country but this will be the point where "God and country" will no longer make up the pay differential.**

IV. EXECUTIVES REPORTING DIFFICULTY RECRUITING OR RETAINING SES BECAUSE OF COMPRESSION, INCLUDING EXAMPLES OF EXECUTIVES WHO DECLINED PROMOTIONS

Senior Executive, Army Corps of Engineers

"A more subtle impact is fewer applications for SES positions. We had only 17 applications ... for our last 2 [SES] positions in New York and Cincinnati. **The folks I talked to said they were not interested in doing the things an SES has to do for GS-15 pay!"**

ES-4, Department of Veterans Affairs

"...I know of one specific case in our department of VA where a Director turned down a position in Washington because there would be no monetary incentive for the promotion from ES-4 to ES-5"

ES-4, Department of Energy

"At the Department of Energy, I see many cases, including my own, where **there is virtually no incentive, meaningful or otherwise, for senior executives at the ES-4 level to apply for SES openings at the ES-5 or 6 levels. These jobs are pressure cookers, with a lot of stress**, not just from the substantive parts of the job, but from the labor and personnel fronts. ... **(1) the pay is exactly the same, providing no extra incentive; (2) the ES-5 and 6 levels trigger severe post-employment ("no contact") restrictions**, giving great pause to any senior executive thinking of retiring in the near future; **(3) there is now little incentive to stay in career service, since SES pay raises have been losing serious ground for 10 years**, compared to all other reasonable measures, including the pay raises given to all of our civil service subordinates on the General Schedule.

In one specific case in the Dept. of Energy, a vacancy for the Principal Deputy Assistant Secretary for Policy, a career ES-5 position, attracted few experienced candidates. Several ES-4s within DOE were asked to apply, including myself,

but declined for the reasons stated above. The position was eventually filled by an ES-1 from a different agency, seeking a change of venue, with the resulting loss of an experienced executive in this senior position. If repeated throughout the Federal government, this can hurt."

ES-4, Department of the Army

"I am currently an ES-4 in the engineering and scientist information technology field. I am ... 12 months from CSRS [retirement] eligibility. I am likely to elect retirement upon eligibility partially based on the pay compression and definitely am not interested in an ES-5 position for same pay and the additional post-employment restrictions."

Senior Executive, Department of the Treasury

"I certainly **do** know two people who have been reluctant to be considered for ES-5/6 positions (as ...), primarily because of pay compression. My boss is extremely well qualified, but she has stated she will not allow herself to be nominated as an This is due to the failure of the Federal government to compensate (due to pay compression) for the increased risks and responsibilities.

ES-4, Department of Veterans Affairs

"I have considered moving from ... as a VA Medical Center Director to take more responsible positions. Have been offered positions in ..., and I have turned both down because the pay compression.

I have not chosen to apply for ES-5 positions as a Network Director, although my experience in Headquarters X2, and the Region, and as the Executive Assistant to the Under Secretary for Health would make me more than qualified, because there is **absolute[ly] no incentive to move my family, suffer financial losses in real dollars for a lateral move where the pay is capped.**

Because of this the Agency is bringing in less experienced people to fill leadership positions, who have a tremendous learning curve. 95 % of VA executives will be leaving within a year [,] ... I firmly believe [,] if pay compression is not corrected. In the last year the Directors of White City, OR; Long Beach; Alexander, LA.; Hampton, VA ; Lexington, KY, just to name a few, have retired either early, [or] to take private sector jobs."

ES-4, Department of Energy

"A position advertised three years ago ... was a promotion from my present ES-4 to an ES-5. The position was the Administrator, Western Area Power

Administration. I had had six years of experience at the ES-4, but would not apply as it involved a move and would not yield an increase in pay as I was already compressed against the cap. I was asked by many to apply, but did not because of the move coupled with no pay raise. The applicant that applied and took the job did not have to move."

ES-4, Department of Veterans Affairs

"I have very intentionally not applied for our Network Director positions (all of which are ES-5) because they make exactly the same thing I do (besides being in even more expensive areas of the country). Though I offer that example personally, VA has been forced, of late, to hire far more "outsiders" for these positions than would have been the case ten years ago, and, to my way of thinking, far more than is ideal.

The Secretary and Undersecretary for Health have both told of difficulties getting talented current Executives to come to Washington to help staff the new jobs in the administration. Dr. G, the Undersecretary, has been trying for more than a year, as I recall, to fill his SES Chief of Staff position, being forced to rely on a series of acting's. (Even hefty recruitment bonuses have failed to cure that problem...!)

Many SES positions at our larger facilities (Palo Alto, California is a recent example) are being filled with individuals who were GS-15s immediately before the assignment. In the old days, that would NEVER have happened, because you would have had (probably) two "smaller" SES positions before tackling healthcare operations with annual budgets in excess of \$300 million per year. Our agency HR folks attribute that to the crushing cost of living in those areas (and the fact that those of us in the "smaller" assignments already make exactly the same money.)"

ES-4, Department of Defense

"I have several 15's working for me now who have chosen not to apply for SES jobs because the pay is not that much better and the benefits are not that great. For example, 15s and below are on compressed work schedule, and are eligible for Telework - SES are not. 15s and below can accumulate comp time and some even get paid overtime - SES can not. Compare the salary of 15 Step 10 to that of an SES 1.

I am planning to retire next February, the main reason is salary cap. I have already interviewed for jobs that pay the same as I am earning now plus stock options. This plus my retirement will make my gross salary in the area of \$200,000 plus benefits. Why stay working for the government? I have received a Presidential Rank Award and SES bonuses for the past eight years. My largest bonus was \$10,000; my friends in industry get bonuses

of 10% to 30%."

Senior Executive, Department of Veterans Affairs

"...one thought is the difficulty Central Office had in hiring for the Chief of Staff's position which is related to senior Directors not wanting to go because of the Washington, D.C. costs and the pay compression."

ES-5, National Labor Relations Board

"What I have heard is that managers at the Grade 15 level are not bidding on SES jobs because the headaches are not worth the small amount of additional compensation that they might get. Recently, the NLRB had a very small number of applicants for 2 Regional Director (SES) positions."

Senior Executive, Internal Revenue Service

"The problem ... I have experienced is not so much with executives leaving the service but with their unwillingness to make any moves. Many are in a position where the service is not able to offer them any rewards for making sacrifices. If they are forced to move to a job or location that they do not like, they threaten with retirement. We have too few executives available that we can force the experienced executives into positions where they are needed and risk losing them. Therefore, **we are forced to put inexperienced executives into positions that they are not ready for.**"

ES-4, Department of Veterans Affairs

"I did not aggressively interview for the VISN 1 Directorship since I was capped at \$133,700. I was one of the 3 finalists. The pay is still capped from 23 months ago. Additionally the unfair pay structure (SES vs. MD - VISN Director situation that does not support equal pay for equal responsibility) and the responsibility associated with a job that has 1/17th of the medical care budget for the VA, along with numerous travel from home, made this opportunity a 'no brainer' for not competing.....

I declined recent opportunities to move to a tertiary facility and several others in the past since I was capped and there was no advantage to move and this would have placed undue stress on my family situation....

At 53 years old with a Pharmacy degree I can retire with 31 years service today and **I can go down the street and work as a Pharmacist at CVS or Walgreen's and make \$90,000 to \$110,000 for filling 100 prescriptions a day vs. managing a facility that has over 900 employees, 18 different associated programs on the property, sharing agreements, research, training, and VISN duties and the VP for strategic Planning, VP for Marketing, and**

several National committees such as the CMOP Board, DSS steering etc..... there is no equity in pay at this point, just a commitment to service that is wearing very thin Thank God the patients and employees remain the focus of my career.....at this moment in time."

ES-3, National Labor Relations Board

"Our agency is having a hard time attracting managers to apply for the SES positions. The GS-15 salary has become so close to the SES pay, that many decide not to take on the headaches of higher management. This will be even more pronounced with the 4.6% wage increase. Often when posting for an SES position, we are looking for managers who are willing to relocate. **With the relatively small increase in pay, managers are not willing to bid on the SES positions when they are going to have to uproot their families.**

Fifteen or twenty years ago, we had a large number of applicants for our SES positions. We have had very few applicants in our recent postings. (On some occasions, we have had only one or two applicants.)"

Senior Executive, Internal Revenue Service

"I believe pay compression is seriously endangering our ability to accomplish our mission.

First I note that **working in the area of sophisticated tax law, we are already challenged in that the top executive level pay is below that offered a first year inexperienced attorney.** I do not expect government to ever be fully competitive (nor need it be as it offers some other key intangible benefits in the importance of its mission). That being said some adjustment to pay scales is essential. Increasingly the crisis is particularly true at the SES level. **We are finding it virtually impossible to recruit outsiders into SES positions.**

For example we have repeatedly posted to fill an SES position heading our Financial Institutions and Products office and failed to attract qualified outside applicants (or even qualified internal ones). A recent positing for an SES position in Tax Exempt and Government entities brought only one applicant (an internal applicant who was very hesitant because the SES pay increment was so minimal and the burdens so significant in comparison). She has given us a good couple of years but will retire next spring seeing no salary growth potential. **Another Tax Exempt and Government entities position has been repeatedly posted (Director EO) without qualified applicants. No one from the private sector would accept the pay.** A Treasury official (...) moved over but was only willing to take a "pay enhanced" position and then found the responsibilities outweighed the pay and left.

For incumbent SES we reach our cap virtually immediately and then experience no movement, not even enjoying the full raise enjoyed by our subordinates (e.g. this year's 3.6 or 4.6%). I am anticipating needing to fill an SES position shortly and have been recruiting interest in internal managers and outside applicants. **The outsiders just laugh at the pay level and the prospect of then being stuck at the same level for years. The internal candidates are fairly frank that the minimal increment in wage** (which they expect to see eaten up by their [GS] raises in the next year or two) **is not worth even giving up credit hours.** Recruitment of SES employees to fill higher level SES positions is even harder--there is absolutely no incentive.

Increasingly in our agency FERS SES (e.g. ...) leave fairly quickly and often (in her case definitely) **the reason is pay. CSRS close to retirement may hang on**, where they used to stay beyond minimum eligibility, **now they leave right away** (e.g. ..., ...). None of them are leaving to retire -- witness the fact that they immediately take significantly higher paying positions in law and accounting firms.

I love and believe in the mission of government and the importance of having bright, caring and responsible people serving that mission. As an Executive nearing retirement eligibility and feeling very burned out by pay stagnation and the compromises it has forced on those I love, I am trying desperately to do the succession planning my office will need to manage in the years to come. I never thought that I would be considering leaving on [my retirement] eligibility [date] but now I project I will. I feel I have no choice if I am to provide adequately for my family. I have never been so disheartened at the possibilities--my best and brightest repeatedly advise me that they see no future for themselves in government despite their love for it and commitment to it."

ES-3, Department of Justice

"Within approximately the last year, the Criminal Division of DOJ advertised for a Senior Litigation Counsel position and, when that could not be filled, an attempt was made to recruit for an SES position. We were unable to fill either position because there were no suitable candidates. **The starting SES salary levels are not competitive with management salaries in US Attorney offices and they are insufficient to recruit suitable attorneys from private practice."**

ES-3, Department of Energy

"We are trying to fill an SES section chief position and have had very few applicants. I have been told that some of the best qualified people for the job have not applied because the pay differential between those assistant

chief salaries and the SES salary is so small. And the job brings much more pressure and responsibility."

ES-2, Department of Veterans Affairs

"Subspecialists in Surgery and Medicine are simply not available at current pay rates..... We have moved more and more towards a contractual arrangement with local Hospitals to provide these services Candidates for positions to move up the ladder are not qualified due to the poor planning and dissolution of training programs in the system Many qualified staff have sought private sector jobs instead of seeing the VA as a career ladder.... pay is a big issue here...."

ES-4, Department of Justice

"S. C., former Assistant Attorney General for Administration, Department of Justice, took an early out retirement in March 2001 to join a private law firm as their administrator. He was experienced, well liked, talented etc. He was the senior career employee in DOJ. He left for more money and less stress. The job is still vacant because most of us SES employees know that the job requires long hours, lots of responsibility, and no additional pay even though it's in SES.

(...), who has been acting in the job[,] doesn't want the job for the same reasons."

Human Resources Official, Internal Revenue Service

Executives believe that the continuing failure of the Congress to lift the ceiling on Senior Executive salaries, generally referred to as pay compression, is resulting in the loss of valuable seasoned tax professionals that are very difficult to replace. Further, pay compression has caused the top salaries of General Schedule employees to become increasing closer to those of the entry level Senior Executives. This serves as a disincentive for IRS employees at the Senior Manager and GS-15 levels to apply for the SES Executive Development Program. The ability to develop and maintain an effective succession planning program is weakened and we are less likely to have candidates ready in the pipeline to replace departing executives without substantial disruption in the accomplishment of our mission.

The information listed below synthesizes our findings supporting our conclusions.

LOSS OF EXPERIENCED TAX PROFESSIONAL SENIOR EXECUTIVES

- NEARLY 100 PEOPLE HAVE RETIRED IN THE LAST FIVE YEARS FROM THE IRS SES RANKS.

- 39% OF THESE EXECUTIVES RETIRED WITHIN ONE YEAR OF INTIAL RETIREMENT ELIGIBILITY AND ANOTHER 23% WITHIN THREE YEARS.
- THE VAST MAJORITY OF THE RETIREES WERE ES-4 OR HIGHER AND PAY CAPPED.
- MANY WERE TOP LEVEL TAX PROFESSIONALS, NOT EASILY REPLACABLE.
- A NUMBER OF THESE INDIVIDUALS WERE HIRED BY THE TOP FIVE ACCOUNTING FIRMS IN THE COUNTRY AND OFFERED SUBSTANTIAL SALARY INCREASES.

NEGATIVE EFFECT ON SUCCESSION PLANNING THROUGH THE FORMAL EXECUTIVE DEVELOPMENT PROGRAM

- **PAY COMPRESSION IN SES HAS CAUSED THE GAP BETWEEN IRS SENIOR MANAGERS TO BECOME INCREASINGLY SMALLER, RESULTING IN LESS INCENTIVE TO TAKE ON MUCH LARGER RESPONSIBILITIES FOR LITTLE ADDITIONAL REWARD.**
- **IN THE LAST TWO YEARS, THE NUMBER OF INTERNAL APPLICANTS APPLYING FOR THE EXECUTIVE DEVELOPMENT PROGRAM HAS DECREASED DRAMATICALLY—IN 2001, ONLY 35% OF THOSE APPLYING WERE INTERNAL CANDIDATES—IN 2002, THE NUMBER FURTHER DECREASED TO ONLY 15% OF CANDIDATES FROM WITHIN THE IRS."**

DISES-6, National Imagery & Mapping Agency

"NIMA does have some experience with problems in recruiting senior positions. **We hired a professional search team to help us fill senior level positions and we were told, in essence: low pay limited them to looking for people who had some other retirement and those who just wanted experience of a big job before retiring, or had sufficient resources such that pay was not an issue and the challenge of the job was intriguing.** In essence, either [people who were] financially sound, or those looking for work after retirement from the private sector."

ES-2, Internal Revenue Service

"The IRS received authorization to hire 40 term executives at up to 186 K a year to help resolve the problem of not being able to recruit for critical positions."

V. EXECUTIVES WHO RETIRED BECAUSE OF PAY COMPRESSION

Former ES-4, Veterans Affairs

"I left for several reasons, but the pay cap was a major one. [I] was capped for the last three years I worked, so staying was foolish when I could get better percentage increases through the COLAs. Other reasons include:

- I was ordered to move from ... to the ... Area in 1992 at exactly the same salary. This was the 15th government move for my family and me. I was not in 'trouble.' I have three presidential rank awards, one of which preceded this reassignment to a much more difficult job in a much higher cost of living area.

- The VA stopped letting VAMC directors pay their rent for government housing with pre-tax dollars. This reduced my disposable income by several hundred dollars per month. This was effective January 2000.

- Much of my success was because I was heavily involved in the non-government healthcare scene (e.g. I chaired the ... State Hospital Association, the ... Hospital Association and was on numerous boards.). This had to end when the 'ethics rules' were interpreted to preclude participation on such boards due to 'conflict of interest.' Frankly it was in the best interest of the VA that I was so involved, but the conservatives who sit in offices and make up the rules had no concept of working in the field.

- The 'McCarthy-like' ethics mentality caused me to give up the government vehicle that I used to visit the 8 campuses in my organization which were spread from ... to ... (about 100 miles in each direction). Because I lived on the VA grounds, this vehicle always began and ended trips at the VA site and personal stops were never made.

- The frequent flyer rules were ridiculous

- I was tired of working for about \$130,000/year when those running similar sized healthcare organizations, with whom I was in frequent contact professionally, made at least double and often quadruple what I did, plus they had many perks that are unthinkable in the government. To add insult to injury, I supervised a few hundred physicians, most of whom made more than I did, some as much as \$200,000 or more with their medical school [teaching] supplements. Even those with only government salaries made up to \$160,000+.

I am fully retired and do not plan to work again I received Meritorious Rank Awards in 1988 and 1994, and a Distinguished Rank Award in 1997. I entered the SES in December 1979. When I retired I was responsible for 8 campuses including well over 300 acres, almost all VA owned property, a \$300 million budget, and the healthcare of over 2000 veterans every day.

ES-3, Department of the Interior

"I am retiring at the end of this year, partially because of pay compression...there is little incentive financially to stay when virtually all in the SES are the same pay level, evaluation systems are a sham, and meaningful differentiation among responsibility levels is virtually non-existent."

ES-5, Department of the Army, Tank-Automotive & Armaments Command

"... I leave after 37 1/2 years because I want to cut back, because our pay is a joke and because I am frustrated overall with our government's treatment of its workforce. I have a strong opinion that, unless we reverse this trend very quickly, we will (if we have not already) become an employer of last resort. And in my business we are making things more technically complex with lots of great technology. But someone thinks we can get the talented young people needed to make it happen on salaries that are a joke in comparison to our friends right outside the gate. Finally, in my case I will work less than 1/2 day to make up the difference in what I make today and my annuity."

VI. ADDITIONAL, RELATED COMMENTS

ES-5, Department of the Interior

"... **pay compression** means that SES level promotions are essentially meaningless financially to the exec. This **puts more pressure on agencies to reward execs with bonuses, which actually cost the agency more.** So either agencies pay more for recognizing outstanding execs or they don't recognize them at all in any financial way. Both results are extremely bad personnel policy."

ES-3, Merchant Marine Academy

"The compression problem, after several years of ... being in effect, has become critical in managing... the United States Merchant Marine Academy. The situation is described below:

- 1). The USMMA is headed by the Superintendent (ES-4) and the next-in-line is the Academic Dean (ES-3). There are no other SES positions.
- 2). Academic department heads report to the Academic Dean. They are excepted employees whose classification is Faculty - Department Heads.

3). At the moment, the Superintendent, Dean and two Department Heads are capped at the same salary...in spite of the fact that the level of responsibility is highest for the Superintendent, next for the Dean and then for Department Heads.

There are, thus, several problems:

1). Frequently when the Dean's position is open, Department Heads have strong qualifications to replace the incumbent. In the situation described above, there would be no pay raise while the level of responsibility would be much greater. Recruiting might be quite difficult. For your information, the incumbent Dean is 62 years of age, and eligible for retirement.

2). Faculty at the USMMA who are rated Proficient in the annual performance appraisal, receive each July 1 a step increase. In a few years, some faculty will be paid the same salary as their Department Head (if salaries remain capped). Department Head jobs are stressful, time-consuming jobs, with much greater responsibility than faculty have. It would be extremely difficult to replace a Department Head. It should be noted that Department Heads serve three-year terms and can decide not to continue, but instead return to teaching as a faculty member."

ES-4, Railroad Retirement Board

"I haven't left yet -- I will be eligible next year. The biggest factor in my decision to retire next year is whether at the time, I feel appreciated for what I do.

I work for an agency headed by a three member Board, appointed by the President and confirmed by the Senate. Because their EX pay is tied to cabinet and subcabinet salaries, and because they do not receive locality pay, I am paid the same as one and more than the other two. Some believe that is why they do not award SES bonuses from a pool of almost \$100,000. We already make as much or more than our bosses -- why should they pay us more?

One way of appreciating me is for the Congress and the President is to recognize that insult is added to injury by keeping my salary at a cap. Based on my responsibility (administering a benefit program that pays over \$9 billion annually), I would be paid substantially more in the private sector. I bet they don't have caps! **I'm not really complaining about the gap between federal and private salaries. What I do complain about is the artificial mismatch between value added by executives and other employees. We hear all these stories about the ratio of CEO salaries to that of workers and how that ratio has grown substantially over the last 20 years. The opposite is true in the federal government.**

What can I do with my complaint? Not too much, except walk away when I am eligible. I'll feel a whole lot better about the federal government paying me \$80,000 a year to sit at home than I will about the federal government paying me \$133,000 a year to take on the responsibility and risk of the job I am in currently. I have no desire to do something similar in the private sector – it is strictly a matter of feeling that I am respected, appreciated, and treated fairly. As long as I do, I'll stay; as long as I don't, I'll leave. When I do, the agency and the federal government will lose a lot more value than \$133,000.

If nothing else, a meaningful pay raise will make those of us who could leave in the next 2 - 3 years to think twice. If the Administration and the Congress think the brain drain will be detrimental to government, what better way to keep us around for 3 more years than to provide something to increase our high-3 and thus our retirement!"

ES-5, National Labor Relations Board

"I have 33 years with the NLRB, the last four as an SES-er. Right now I am paid about \$15,000 more than I would be if I had never sought promotion; the pay differential hardly covers the extra hassle involved in my current position.

I received a pay increase when promoted. Since then, I have been topped out. That means I get a raise whenever Congress lets its pay increase. I just realized a couple of weeks ago that my pension would increase faster by retiring and getting pension COLAs than by sticking around and trying to increase my high three.

I like my job, but I also will like retirement. At this stage I need a financial inducement to stick around. Otherwise, I'm out of here by this time next year."

Senior Executive, Armed Forces Institute of Pathology

"... Pay compression has one other "negative" effect on our executives that does not apply to the SES at large. All of our SES members are physician-executives. An M.D. degree is required of each position. Because it is so difficult to compete with physician salaries in the private sector, a Physicians Comparability Allowance (PCA) is authorized. Unfortunately, when the PCA is factored into their total compensation, it brings our executives close to the ceiling. Any performance award bonuses and/or presidential rank awards brings them over the total compensation ceiling limitation and therefore must be paid out over multiple fiscal years. This creates a disincentive for getting involved in the difficult processes of management...."

ES-4, Department of the Navy

"I am the Executive Director of I am ES-4 and there is no ES-5 billet, and, even we had it, the pay would be the same. I have over 2000 employees and \$350M revenue/year. I have to work over 60 hours per week dealing with a full range of problems and issues just like the CEO for any corporation. Yet **Department Heads who run an organization 10 times smaller also get the same ES-4 pay. Such a disparity does not inspire future leaders to grow into my position.**"

ES-5, Department of Energy

I have been with the government over 25 years and I am 49 years old. Since my promotion to a SES position, I have received bonuses every year except for 2 years when I was promoted from one rank to another. I am contemplating early retirement because of general work conditions within the Federal Government including pay compression. It just does not make any economic sense to stay with the government when one can use his/her expertise in the private sector to earn more in addition to their retirement pay. **I believe the American citizens have the best civil service workforce because of its leaders' leading the most patriotic workforce in the world. It would be a pity to allow for such a brain drain to occur just because some of our legislative colleagues are not paying attention to the unintended outcome of not doing what is fair and just: compensation based on duties and responsibilities. My former senior managers (GS-15's) are earning almost as much as the SESs.**"

ES-3, United States Customs Service

"I have an example of a pay compression problem that I have not seen surfaced heretofore. I work in ... and am covered by the Locality Special Rates for Law Enforcement Officers. I am capped as an ES-3. The pay compression problems such as recruitment, retention and mobility actually occur at the ES-2 level as the pay level is approximately \$1,800 below the cap. The congressional approved Locality Rates for Law Enforcement Officers are much appreciated, but, in the final analysis, they make little difference."

ES-5, Environmental Protection Agency

"I am currently an ES-5 and have been topped out for five years (initially as an ES-4). I supervise about 180 people, at the top of the career hierarchy, reporting directly to a Presidential appointee confirmed by the Senate. My span of responsibilities is large.

I am age 50, with 26 years of service. I will be eligible for retirement in four years, at which time my two children will be aged 15 and 12. Unless there is a significant pay increase, I will leave the federal service when I am eligible in order

to secure the substantially higher pay which is immediately available to me in the private sector. While not absolutely necessary, this additional income will be very useful for me to pay for college for my two children, without incurring large loans.

I am proud of my government service and am dedicated to the mission and people of the Environmental Protection Agency. I love it there; I would not have stayed so long if I did not. But the pay compression problem is reaching serious proportions. Unless this is mended, I will certainly be among the large group of people eligible for retirement in the next five years, who actually do so. **My experience will go with me, to those who are willing to pay me what it is worth."**

ES-5, Department of Energy

"The May 21, 2001 Inside Energy (page 10) reports that the University of California (UC) has appointed John McTague to a new senior-level position responsible for overseeing the University's management of three DOE National Laboratories (Lawrence Livermore National Lab, Los Alamos National Lab, and Lawrence Berkeley National Lab) for which UC holds DOE management contracts. The salary for this new position is \$300,000 per year.

By contrast, the DOE Under Secretary for Nuclear Security/Administrator, National Nuclear Security Agency (NNSA) is a Level III Presidential appointee. He is responsible for two of the three labs above (Livermore and Los Alamos), plus additional manufacturing facilities, laboratories, and the well being of the nation's nuclear stockpile. His salary is only \$133,700!

And the Director of the Office of Science is a career ES-6. At the moment -- and during many similar past transition "moments" -- he is responsible for running the Office of Science. In addition to his programmatic responsibilities, he is the DOE official responsible for the University of California's Lawrence Berkeley Laboratory, plus nine other laboratories. And his annual salary is the same \$133,700. ... "

FMA

Federal Managers Association

Testimony

Before the Committee on Governmental Affairs
Subcommittee on International Security, Proliferation and Federal Services
United States Senate

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**The Federal Workforce:
Legislative Proposals for Change**

**Statement of
John C. Priolo
Federal Managers Association**



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Chairman Akaka, Ranking Member Cochran, and distinguished Members of the Committee:

On behalf of the nearly 200,000 managers and supervisors in the Federal government whose interests are represented by the Federal Managers Association, I would like to thank you for inviting FMA to present our views today before this committee.

I am a 36-year employee of Pearl Harbor Naval Shipyard and Industrial Maintenance Facility, with 31 years in the Nuclear Engineering and Planning Department. I currently hold the position of Curriculum Development Manager in the Production Training Department. Within FMA, I am a member of the General Executive Board by virtue of being the president of FMA Zone 7, which covers Hawaii, northern California, northern Nevada, Colorado, and Utah. My statements are my own in my capacity as a member of FMA and do not represent the official views of the Department of Defense or the Navy.

Mr. Chairman, I would be remiss if I did not personally thank you for your support over the years of FMA Chapter 19 at Pearl Harbor. Your efforts have been instrumental, particularly in the area of workforce revitalization at the Shipyard, whereby we have been able to hire over 520 new apprentices and 100 engineers over four years.

Established in 1913, FMA is the largest and oldest Association of managers and supervisors in the Federal government. Our Association has representation in more than 25 Federal departments and agencies. We are a non-profit advocacy organization dedicated to promoting excellence in public service through effective management. As those who are responsible for the daily management and supervision of government programs and personnel, our members possess a wide breadth of experience and expertise that we hope will be helpful as we collectively seek to address the human capital crisis that our government has been saddled with.

Mr. Chairman, before I present FMA's perspective, I'd like to take this opportunity to thank you along with Senators Cochran, Durbin, Voinovich, Thompson, and Collins for your leadership on S. 1799 and S. 1800 to provide additional educational benefits for employees at those Federal agencies





responsible for homeland security. Although these bills are not the focus of today's hearing, they are nonetheless critical elements in the human capital discussion.

As has been well documented, during the course of the 1990s the Federal government underwent a dramatic downsizing due to the Clinton Administration's *Partnership for Reinventing Government* initiative. As a result of "reinvention" and its arbitrarily set goal of a 15-to-1 employee-to-supervisor ratio throughout the Federal government, nearly 430,000 positions were lost from 1993 to 2000, a 20-percent reduction of the Federal workforce. Agencies are increasingly being asked to do more with less, compete Federal functions with the private sector, streamline procurement processes, and at the same time deliver higher-quality service to the American public.

While civil servants have proven time and time again that they are more than capable of fulfilling their duty, civil service reform is still needed to increase the efficiency of the Federal government. With the Federal government facing a human capital crisis, Federal managers must have the flexibility to use existing resources to recruit new talent while preventing the eminent "brain drain" that will occur with the retirement of so many career civil servants.

Civil service reform will only work in practice when it is applied to the Federal government as a whole. There have been numerous instances of demonstration projects in the area of increasing personnel authority bringing success to some Federal agencies, but rarely are these successful initiatives allowed to cross agency lines. Any reform must retain the notion of the government as a single employer and these various projects have formed divisions in the policies of Federal agencies.

Federal managers and supervisors want our government to work the best it can for the American people. However, as the number of civilian employees continues to shrink, this task is becoming increasingly difficult. Today's Federal workforce is facing a human capital crisis that threatens its ability to properly carry out government services in the future. Very few graduating college seniors view the public sector as a desirable employment option. At the same time, Federal hiring procedures lengthen the process to the point of deterrence. Furthermore, current practices make Federal employment an





impractical option for mid-career professionals. To make matters worse, Federal-sector salaries continue to lag far behind those of the private sector.

HIRING PRACTICES

Hiring policies are still patterned after World War II-era processes. The three-legged process of posting a vacancy, interviewing for an opening, and offering a position takes upwards of a year at times. Hiring procedures need to be updated and streamlined for a quicker response. S. 1639, which mirrors the Administration's "Managerial Flexibility Act of 2001" as part of the President's *Freedom to Manage Initiative*, looks to address current hiring inefficiencies by allowing the U.S. Office of Personnel Management (OPM) or any agency with delegated examining authority, to institute alternative systems for evaluating job applicants. It would also permit agencies to directly hire candidates in situations where there is a shortage of staff or a critical hiring need. We at FMA believe that these are steps in the right direction. If necessary, Federal managers need to have the authority to fill positions of critical need within their respective agencies in an expedited fashion. In addition, we believe Full-Time Equivalent (FTE) ceilings must be made more flexible.

RECRUITMENT AND RETENTION

Recruitment and retention incentives, such as signing bonuses, increased training budgets, and education reimbursement, should be implemented more effectively throughout the Federal government. S. 1639 offers some improvements in this area, such as limited opportunities for recruitment and retention bonuses, alternative methods of receiving bonuses, potentially higher rates for bonuses if it is a critical agency need, as well as payment of academic degree training for current Federal employees. Some agencies have begun offering repayment of student loans; FMA would like to see this benefit extended to those seeking graduate degrees as an additional recruitment and retention tool. Often times, however, agencies do not have adequate funding for these incentives, even existing ones. Annual appropriations should include additional line items for recruitment and training. The public sector should mirror the private sector in appreciating that the most valuable organizational asset is the workforce itself and in recognizing that "you get what you pay for."





Retention bonuses do not always have to take the form of financial incentives. In exit interviews of Federal workers, other issues such as a lack of recognition and a long-term sense of purpose are missing from government employment. It is also a widespread belief of those leaving government that there exist insufficient opportunities for growth in the public sector, which brings us to the problem of proper succession planning. In a recent poll conducted by the Partnership for Public Service,¹ when Federal employees were asked to rank the effectiveness of 20 proposals for attracting talented people to government, the most popular choice was providing more opportunities for career advancement.

TRAINING

Agencies must also be prepared to invest in their employees by offering skill training throughout their career. This prudent commitment, however, will necessitate significant technological upgrades. OPM has already developed pilot Individual Learning Account (ILA) programs. An ILA is a specified amount of resources such as dollars, hours or learning technology tools, or a combination of the three that are established for an individual employee to use for his/her learning and development. The ILA is an excellent tool that agencies can use to enhance the skills and career development of their employees. Clearly agency budgets should allow for the appropriate funding of the ILA as an example. However, history has shown that training dollars have been a low priority for many agency budgets. Toward this end, we at FMA support including a separate line item on training in agency budgets to allow Congress to better identify the allocation of training funds each year.

FMA is also supportive of S. 1603's provision to create a training officer position within each Federal agency. This would this allow for better management and recognition of training needs and resources, in addition to placing increased emphasis on critical training concerns.

¹ Survey conducted by Hart-Teeter for the Partnership for Public Service and the Council for Excellence in Government, October 23, 2001, p. 1-3.





MANAGEMENT CADRE

Civil service rules must be tailored to meet the challenges of today and tomorrow. This tailoring should continue adherence to merit system principles, retain the notion of the government as a single employer, and give agencies needed flexibility to accommodate increasing workloads with diminishing resources. To simplify and reduce the cost of Federal human resource management, OPM has delegated substantial personnel authority to agencies over the past five years. Agencies in many instances, however, have not delegated this authority to line managers. In some cases, supervisors enjoy fewer delegations of authority than they did in the early 1990s.

We continue to experience difficulty attracting individuals to management positions. The notion of the career civil servant is becoming more and more obsolete because there are few incentives for advancement in the Federal government. This – combined with higher salaries and benefits packages in the private sector – are causing many Federal employees to leave the public sector after only a few years. In fact, there are often times disincentives for moving up the career ladder. A vivid illustration of such is the current statute which caps overtime pay for Federal managers and supervisors, resulting in their making less on overtime than the employees they supervise. More specifically, managers have been confined to the GS 10 step 1 level when working overtime since 1966. FMA supports the idea of creating a separate pay scale for managers. At a minimum, the Title V regulation capping overtime pay for managers and supervisors must be aligned with the times. It is therefore no surprise that we are seeing more instances of managers either returning to the bargaining unit or moving to the private sector than ever before.

A mentoring program for new managers should be developed to ensure that the government has the strongest possible management cadre. Similarly, all agencies should have structured Senior Executive Service (SES) development programs that identify and train potential SES candidates.

Managers should be afforded the means to continuously enhance their skills. Individual development plans should be devised to maximize each manager's potential. Agencies and departments should increase opportunities for managers to receive training in their respective fields while on-duty by





specifically allocating funds for this training. Thus, FMA supports establishing management succession programs to ensure that we have the strongest possible pool of managers to lead tomorrow's civil service.

PERFORMANCE MANAGEMENT

For agencies to perform at optimum levels, employees must have clearly defined performance standards. These standards should be directly linked to the agency's mission, customer service goals, and annual performance plan and/or strategic plan.

We at FMA support implementing a more comprehensive, government-wide appraisal system. The "pass/fail" appraisal system serves as a disincentive for excellence. An appraisal system that clearly delineates unacceptable, acceptable, and excellent performance is recommended. The appraisal rating should be a key consideration in the promotion and award processes.

The current mechanism in place for addressing unacceptable performance should be revised, for it is far too cumbersome and takes too long to document. As a remedial measure, the employee should be provided tutoring and given a reasonable timeframe in which to attain acceptable performance. We as Federal managers want the process to be fair for both the employee and the agency.

We envision a "contract" between the manager and the employee, i.e., if an employee performs at the acceptable level of performance, he/she will retain the position and receive the scheduled within-grade increases; if an employee perform at the excellent level, he/she will receive a financial reward and eventually a promotion; if an employee performs at the unacceptable level, he/she will receive a reasonable timeframe in which to improve performance or face dismissal.

We at FMA recommend an awards system for managers that is distinct from that of the rank-and-file system. For example, the percentage of funds for manager awards should not have to mirror the percentage for employees. Awards should adequately reflect the manager's level of responsibility, span of control, and level of achievement.





COMPENSATION

Compounding the myriad of problems associated with the recruitment and retention of Federal employees is the significant pay gap between the public and private sectors.

According to the same survey by the Partnership for Public Service², the Federal government is not considered an employer of choice for the majority of graduating college seniors. In the survey, nearly 90 percent said that offering salaries more competitive with those paid by the private sector would be an “effective” way to improve Federal recruitment. Eighty-one percent of college graduates said higher pay would be “very effective” in getting people to seek Federal employment. When Federal employees were asked to rank the effectiveness of 20 proposals for attracting talented people to government, the second-most popular choice was offering more competitive salaries (92 percent). The public sector simply has not been able to compete with private companies to secure the talents of top-notch workers because of cash-strapped agency budgets and an unwillingness to address pay comparability issues.

The Federal Employee Pay Comparability Act (FEPCA) of 1990 was intended to close the gap between Federal employee salaries and those of their private-sector counterparts. However, FEPCA has never been implemented as it was originally designed. More than a decade later, the Bureau of Labor Statistics shows the pay gap between Federal civilian employees and their private-sector counterparts has grown to 32 percent. With more than half of the Federal workforce eligible for either regular or early retirement by 2005, we must, at a minimum, re-examine FEPCA to determine how best to bring public-sector salaries more in line with those of their private-sector counterparts.

GOVERNMENT RIGHTSIZING

The number of managerial positions in the Federal sector has already been reduced significantly over the past decade. In fact, many government leaders would attest that the present state of the

² Survey conducted by Hart-Teeter for the Partnership for Public Service and the Council for Excellence in Government, October 23, 2001, p. 1-3.





management structure and its ability to accomplish individual agency missions has been progressively eroded by continuing cutbacks in managerial and leadership positions.

As we have witnessed, arbitrary reductions without mission analysis serve to undermine the efficiency and cost-effectiveness of government. It is imperative that an analysis of the core missions of agencies be conducted to determine the most efficient organization and ensure that essential skills are retained in the Federal workforce.

Contracting-out can threaten the ability of Federal agencies to fulfill their core missions. Our concern is the perception that the private sector always outperforms the public sector – which is patently false.

We desire true competition for services that are not intrinsically governmental. But for true competition, we must have a level playing field. We must be mindful that when balancing government needs, employee rights, and contractor concerns, there are fundamental value differences in cost, accountability, and control between performing work in the public and private sectors. The government is ultimately responsible for the work and must abide by legal and ethical rules that do not apply in the private sector, such as the Freedom of Information Act. Civil servants also face challenges in managing third-party contractors who are outside their hierarchical authority. The private sector, whether performing more efficiently or not, differs in that it is guided by profit motive.

A prime example is the requirement for the government to work within the confines of the Federal personnel system in hiring employees during an in-house Office of Management and Budget Circular A-76 win scenario. The government is mandated to work within the cumbersome recruitment process, while a contractor can put its vacancy announcement in the local newspaper one day and hire individuals the following day. This does not represent a level playing field.

The Administration needs to review the restraints placed on government bodies that the contractor does not experience, in particular accountability after a contract has been awarded. As taxpayers first and civil servants second, we want whoever is awarded the work to be held accountable.





Auditory mechanisms should be in place to evaluate performance at the end of each performance year to ensure that the base bid is not exceeded. If the promised performance is not actualized, penalties should be imposed and no subsequent contract awarded. For instance, service contractors should have a performance bond similar to construction contracts.

Federal functions performed by civil servants are being subjected to unprecedented competition with the private sector. In March 2001, OMB directed agencies to compete at least five percent of those jobs – or 42,500 Federal positions – considered commercial in nature by October of this year. Subsequently OMB released guidance requiring agencies to compete at least ten percent of all government positions considered “commercial in nature” in fiscal 2003. Agencies will be able to use direct conversions – in which jobs are converted to the private sector without competition – and public-private competitions to meet the cumulative 15-percent target. As in fiscal 2002, agencies will not be allowed to use reason codes to exempt any FAIR Act positions from the competition requirement. These initiatives fall in line with the President’s commitment to open to competition with the private sector at least one-half of the Federal positions listed on the FAIR Act inventory of commercial functions.

The FAIR Act reporting process is flawed in that it assumes a job title is always a commercial activity across government even though this assessment is best made by the agency based on the responsibilities of the person in that particular position. Lack of clear, definitive guidance and revisions of guidance, as well as misinterpretation of intended requirements all result in confusion as to what is and what is not “inherently governmental.” Additionally, inadequate and unrealistic processing times for report submissions dictated to field activities by the Chain of Command contribute to inventory being submitted inaccurately or incompletely. Furthermore, once submitted, no vehicle exists to rectify the errors.

We at FMA can understand the Administration’s position that competition is the best way to find efficiency. However, we have concerns about the use of arbitrary targets such as five and ten percent when attempting to achieve the Most Efficient Organization (MEO) across government. The term “inherently governmental” as defined under the FAIR Act (“a function so intimately related to the public





interest as to mandate performance by government employees”) has never been clear and continues to be skewed for the benefit of one side or the other. What should be asked is whether or not the function is in-line with the agency’s mission.

Caution should be exercised if commercial activity (CA) studies are thought to be the panacea for efficiency savings. The cost of conducting the actual cost comparison is borne by the activity, and these costs are considered unfunded burdens to the activity with respect to congressionally approved appropriations to conduct the studies. To conduct the studies, Federal employees are being pulled away from their primary duties of carrying out the agency’s mission to write performance work statements. A clear definition of what is “performance based” must be achieved first. Too many liberal interpretations exist, not only in the A-76 community, but also in the Procurement Contracting field, and constant altering of the definitions and “rules” significantly hampers the development of a truly performance-based document. The return on investment is largely lost whether the work stays organic or goes commercial.

There must be a better way. If the Federal government is serious about integrating a performance-based process that focuses on the strategic management of human capital, we must measure the entire cost of programs, including the current shadow workforce of contractors. A major concern to FMA is the Federal government’s inability to track costs and inventory of the contractor workforce and the functions it assumes once work is outsourced. FMA has consistently urged that the FAIR Act be amended to require an inventory of the Federal contractor workforce. Only with an accurate count of contractor jobs and costs can we even begin to assess cost-effectiveness and have the information at hand to consider whether or not it is in the best interest of an agency’s mission to outsource a function.

Under current government contracting rules, when the public sector wins a contracting competition it is periodically audited to determine if it remains the most cost-effective providers of service. Ironically, no similar rule is applied to contractors that win competitions. As a result, the biggest criticism of government contracting is that once the work moves to the private sector there is no way to know if Americans are still getting the best deal for their hard-earned tax dollars. It is also interesting to note that a March 2001 GAO report (GAO-01-388) found that the in-house organization





usually experiences a reduction-in-force regardless of whether the public or the private sector wins the competition.

Nonetheless, Mr. Chairman, FMA applauds the thoughtful examination of new and innovative ways to make our government more efficient and cost-effective. As a start, FMA urges support for legislation introduced by Senator Durbin, S. 1152, the "Truthfulness, Responsibility, and Accountability in Contracting (TRAC) Act," to correct several longstanding inequities in the contracting-out process. This legislation, for instance, would require agencies to accurately track costs for work that is contracted out. This information could then be used to potentially bring work back in-house when it can be performed more effectively and efficiently by the Federal workforce. In addition, the General Accounting Office's Commercial Activities Panel is expected to release its recommendations regarding outsourcing and the OMB Circular A-76 process by May 1st, and we are anxious to examine their findings.

CONCLUSION

FMA supports S. 1603's proposal to require each agency or department head to designate a Chief Human Capital Officer (CHCO), who would be responsible for: (1) setting the workforce development strategy of the agency; (2) assessing current workforce characteristics and future needs based on the agency's strategic plan and mission; (3) aligning human resources policies with the organization's mission, strategic goals, and performance outcomes; (4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities; (5) identifying best practices and benchmarking studies; and (6) creating systems for measuring intellectual capital and identifying links to organizational performance and growth. Likewise, FMA supports the creation of a Chief Human Capital Officers Council -- led by OPM and OMB and comprised of agency CHCOs -- to coordinate and organize all human capital efforts across government.

Despite some headway, there is still much work to be done in the way of reversing the damage caused by a decade of arbitrary civil service reductions. We at FMA are pleased with the direction the Administration as well as Congress have taken in seeking to address the inefficiencies that currently





exist within the framework of the Federal government. The pieces of legislation that we are discussing today are all positive steps in addressing the current climate as the public sector braces for a major transition in a few short years. However, we must keep in mind that even if passed into law, without the necessary funding, no real benefits will be realized – and thus no real progress will be made.

FMA would like to serve as a sounding board for Congress and the Administration in an effort to ensure that policy decisions are made rationally and provide the best value for the American taxpayer, while recognizing the importance and value of a top-notch civil service for the future. I want to thank you again, Mr. Chairman, for providing FMA an opportunity to present our views. We at FMA look forward to working with President Bush and his Administration as well as Congress to deal with our government's workforce challenges in our mutual pursuit of excellence in public service. This concludes my prepared remarks. I would be happy to answer any questions you may have.



THE NEED FOR FIRST-STEP REFORM

PAUL C. LIGHT
THE BROOKINGS INSTITUTION

Mr. Chairman, Members of the Subcommittee, thank you for inviting me to testify today on behalf of the second National Commission on the Public Service and its Chairman, Paul Volcker.

The second National Commission on the Public Service was convened by the Brookings Institution's Center for Public Service nearly 12 years to the day after the first Volcker Commission declared a "quiet crisis" in the federal public service. Former Federal Reserve Board Chairman, Paul Volcker, once again answered the call to public service to chair this renewed Commission.

The Commission, which has adopted a self-imposed term of 12 months, is focusing on the need for comprehensive reform in the federal public service. A distinguished bipartisan group of men and women, all of whom have served the public in a variety of capacities, has agreed to serve as Commission members. The Commissioners are: Charles Bowsher, former Comptroller General of the U.S.; former U.S. Senator Bill Bradley; Frank Carlucci, who served as Secretary of Defense under President Reagan; Kenneth Duberstein, President Reagan's Chief of Staff; former Office of Personnel Management Director Constance Horner; former OMB Director Franklin Raines; Richard Ravitch, Co-Chairman of the Millennial Housing Commission and former Chairman of the New York State Urban Development Corporation; Robert Rubin, former Secretary of the Treasury; Donna Shalala, Secretary of HHS in the Clinton Administration and former Representative Vin Weber. Bruce Laingen, Executive Director of the first Volcker Commission and Michael Armacost, President of the Brookings Institution, will serve as ex-officio members of the Commission. I serve as Senior Adviser to the Commission in my role as Vice President and Director of Governmental Studies at the Brookings Institution and Director of its Center for Public Service, along with G. Calvin Mackenzie of Colby College and Jim Dertouzos of the RAND Corporation. Commission efforts will be guided by Executive Director Hannah

Sistare, who has been Senator Thompson's staff director and counsel on the Senate Governmental Affairs Committee for the past seven years.

The Commission has partnered in its work with several well-regarded organizations working in the public interest in order to receive input from a variety of sources before formulating its recommendations. These include The Council for Excellence in Government, the Kennedy School of Government, the National Academy of Public Administration, the Partnership for Public Service, and the RAND Corporation. The Brookings Institution's Presidential Appointee Initiative along with its Center for Public Service will also contribute research. The Commission will not generate any extensive new research, but will draw upon analysis of the large body of existing work in the field.

The Commission held an organizational meeting last week on March 14th. We are finalizing the areas of concern and program of activities it intends to make the focus of its work. This program will be posted on the Commission web page in April for public input and comment: www.brookings.edu/volcker. The Commission will hold public hearings the third week in July, at which time our public interest partners will share the results of their work. Chairman Volcker plans to finalize the Commission report and recommendations in the fall and release them before the end of the year.

THE ANTI-TERRORISM WORKFORCE

The federal government's human capital crisis is particularly apparent in the anti-terrorism workforce at the Departments of Defense, Justice, Transportation, Treasury, and State. Federal employees in these departments were interviewed as part of a larger study of the state of the federal service conducted by Brookings' Center for Public Service last summer.

The 500 members of the anti-terrorism workforce had plenty to say about the frustrations of working for government. Although they were generally satisfied with their job, salary, security, and benefits, two fifths of the anti-terrorism workforce rated morale in their organizations as somewhat or very low, and just a third said they were very satisfied with public respect for the type of work they were doing.

These employees also expressed worries about the overall competence of the workforce. Roughly half rated the quality of their fellow workers as just somewhat competent or less, and a quarter said the quality had declined in the past five years. They estimated that 24 percent of the people they worked with were not performing their jobs well, primarily because their organizations did not ask enough of them or because they were not qualified for their jobs.

The workforce had little good to say about the personnel system. The vast majority described the hiring process as slow and confusing, and a fifth refused to describe it as fair. And asked how well their organizations did at disciplining poor performers, 35 percent of the anti-terrorism workforce answered either not very well or not well at all.

They also had little good to say about Vice President Al Gore's reinventing government campaign. Seventy percent said their organizations had been reinvented in the past years, but 45 percent of those said the reinventing had actually made their jobs either somewhat or more difficult to do. Two-fifths said there were still too many layers between the top and bottom of their agencies, and only a fifth said their organizations were doing a very good job at recruiting and retaining talented employees at their level in the organization.

Despite these frustrations, the vast majority of the anti-terrorism workforce said they contribute to the mission of their agencies and felt proud to tell friends and family that they work for government. Most were satisfied with their opportunity to accomplish

something worthwhile for the nation, and the majority said they were given the chance to do the things they do best.

Yet, many also said their agencies do not have the tools to succeed. A quarter said their organizations only sometimes or rarely have access to the information needed to perform their jobs well, nearly a third said the same about both access to technological equipment and training, and more than half said that their organizations did not have enough employees to do their jobs well. Even before September 11, these employees believed their organizations did not have the equipment and training to do their jobs well. One can only surmise that they would feel even more under-resourced today, given that they are now being asked to do much more.

Overall, the survey suggests that the federal government has a better anti-terrorism workforce than it deserves. Too many work against the odds to succeed. But with retirements about to increase, the federal government will not have this anti-terrorism workforce forever. These findings reflect problems in the federal workforce as a whole. The serious implications of these findings for the ability of the federal government to effectively accomplish its mission has become apparent.

THE COMMISSION'S AGENDA

The new Volcker Commission was born of the realization that what the first Volcker Commission termed "the quiet crisis" in the public service had become a roar. Many, certainly including Members of this Subcommittee, had reached that conclusion well before September 11th of last year. September 11th put a large exclamation point on the need to address the problem.

September 11th reminded the American public that the responsibilities they have placed on their government, and the people who carry out those responsibilities, matter. The fact that Americans saw the front line members of the public service performing their jobs so nobly and selflessly created a tremendous increase in the public's trust in government. As Senator Thompson has often said, if the American people do not trust those they have put in office, they will never allow them to make the tough decisions necessary to successfully leading our nation.

Unfortunately, there is growing evidence that the quiet crisis is roaring. As it begins its work, the Volcker Commission is considering the following sampling of issues as the subject of its focus:

I. The Aging of the Federal Workforce

The federal workforce is facing a human capital crisis as a result of the forthcoming retirement of many of its members. By 2005, more than half of the federal workforce, some 900,000 employees will be eligible for regular or early retirement. Although the Office of Personnel Management estimates that of those who are eligible only 293,000 employees will actually retire within the next four years, the threat of a massive human capital loss will remain an issue for the foreseeable future.¹ With the departure of these employees, many of whom will be in the Senior Executive Service or other managerial ranks, the federal government will also lose an undeterminable amount of practical knowledge and institutional memory.

II. Recruitment Barriers

The federal government will have a significant problem recruiting the vast numbers of new personnel that it will need in the coming years. In a survey

conducted last summer, only one in six workers had expressed a strong interest in working for the federal government, and a two-thirds majority had a more favorable view of working in the private sector than in the public sector.² When a group of parents and high school teachers were asked which careers offered the greatest potential for their children and students in June 2000, only 11 percent of parents and 24 percent of teachers indicated that government was a promising career.³ Even among the graduates of the nation's top schools of public policy and administration, the prospect of government employment has lost its luster. Whereas three-fourths of the graduates of such schools in 1973 and 1974 started their careers in a government job, slightly less than half of the graduates of 1993 followed the same path.⁴

When potential employees seek to enter government service, they frequently encounter numerous roadblocks. According to a 1999 study by the Office of Personnel Management, as many as one-third of all federal job openings are not publicly announced.⁵ Once an applicant has applied for a position, the hiring process for federal jobs frequently becomes a tedious and lengthy enterprise. In a survey of federal civil service and private sector employees conducted by the Brookings Institution's Center for Public Service in 2001, the vast majority of federal employees described the hiring process as both confusing and slow, while their counterparts in the private sector most frequently described their hiring systems as fast, simple and fair.⁶

III. Retention Barriers

The federal government has frequently experienced difficulty in retaining employees. Of the 112,000 people who began government careers in 1983 and 1984, only three of every ten were still working toward their federal pensions in 2001.⁷ The retention of quality federal employees is a particular problem

within specific occupational fields as well as within the managerial ranks of the civil service. For example, the Securities and Exchange Commission has lost 30 percent of its attorneys, examiners and accountants over the last two years and half of its employees have been with the Commission for less than a decade.⁸ Efforts to make the benefits of federal employment more commensurate with those found within the private sector have not been fully embraced by the federal government. Although the 1990 Federal Employees Pay Comparability Act attempted to establish greater parity between federal salaries and private-sector pay, it has never been fully implemented by the executive branch.⁹ There is also some evidence that the federal government faces a particularly troublesome problem retaining employees after three years of service, when there appears to be extraordinary turnover. It hardly makes sense to put huge amounts of energy into recruiting the best and brightest at the entry level only to lose them at the first available exit point.

IV. Career Rigidity

The inflexible nature of federal civil service hiring and promotion processes frequently complicates career advancement for federal employees and discourages lateral hiring from other governmental departments and the private sector. According to a 2001 survey of federal employees and supervisors by the U.S. Merit Systems Protection Board, only 45 percent of employees reported that their supervisors promote the most qualified available person when there are jobs to be filled in their organization.¹⁰ The same survey demonstrated that federal supervisors often discount the need to look to other governmental agencies or outside the federal government when hiring for a position. Only 41 percent of the responding supervisors agreed to a great or moderate extent that it is important to consider applicants from as many sources as possible in order to give the public greater faith that they all have the best possible civil service

working for them.¹¹ According to the Partnership for Public Service, of the 48,000 vacancy announcements at the mid career (GS12-15) level during FY 2001, only 53 percent were open to applicants who were not already federal employees.¹² In FY2000, only 13 percent of the more than 60,000 federal positions filled at the GS-12 to GS-15 levels were filled by individuals hired from outside government.¹³ Similar data collected at the entry level by the National Academy of Public Administration shows that two out of five entry-level positions filled by the federal government during the 1990s involved a candidate who was already a government employee.

V. The Poor Performers Problem

Federal employees have often been stigmatized as under-performers and, unfortunately, recent research provides evidence of this. According to a study of federal employees conducted by the Brookings Institution's Center for Public Service, respondents reported that on average 23.5 percent of their co-workers did not perform up to par.¹⁴ Regrettably, only 5 percent of respondents indicated that all of their co-workers do an effective job.¹⁵ This survey also suggests that poor performers are poorly disciplined: 67 percent of respondents reported that their organizations were "not very good" or "not good at all" at disciplining poor performers.¹⁶

When an agency decides to fire a poor performer, it begins a long process that, if appealed by the employee, can last for years.¹⁷ Disciplinary rules created under the Civil Service Reform Act of 1978 are difficult to understand, let alone endure.¹⁸ These rules provide disciplined employees with at least thirty days advance written notice (unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed,) and at least 7 additional days to answer the decision orally and in writing.¹⁹

Following this process, the employee has 20 days to file an appeal of the decision with the Merit Systems Protection Board, which assigns an administrative judge to review the action.²⁰ During FY 1999, the average time to process an appeal by an administrative law judge was 100 days.²¹ The employee can then appeal this decision to a three-member Merit Systems Protection Board panel, a process that during FY 1999 took an average of 222 days.²² Appeals of this panel's decision can then be brought before the Court of Appeals for the Federal Circuit and then eventually the U.S. Supreme Court.²³ While these regulations were intended to provide important safeguards that need to be maintained, the process could be streamlined while still protecting federal employees from inappropriate personnel action.

VI. Access to the Top

Many of the nation's most talented civil servants are kept from prime positions as a result of the increasing numbers of political appointees. According to the Congressional Budget Office, there are currently about 2,800 political appointee positions within the federal government.²⁴ Research by the Center for Public Service demonstrates the frustration that federal employees experience as a result of the lack of career growth potential. Of the federal employees surveyed, 32 percent were not very satisfied or not at all satisfied with their opportunities for advancement, 58 percent said the promotional system was not fair, and 77 percent said that there was little room for advancement.²⁵ From FY 1998-2000, the Merit Systems Protection Board reports that one out of every 8.8 employees received a promotion each year. The rate at the higher levels of the general schedule, however, was much lower. During the same period, the rate of promotion from the GS-12 level was 1 promotion for every 13 employees each year. At the GS-13, level the number decreased to 1 promotion for every 20

employees, and at the GS-14 level, on average, there was only 1 promotion for every 25 employees.²⁶

VII. Pay Compression

Just as the opportunities for professional advancement within the federal civil service are limited by hierarchical limitations, opportunities for salary increases are stunted by the compression of federal pay scales. The same salary caps often apply to employees at different grades within the federal civil service. For example, in 2001, 60 percent of Senior Executive Service members received the same salary, \$133,700, despite the fact that the members were from three different grades within the service.²⁷ Research by the Congressional Budget Office has demonstrated that compensation for Senior Executive Service members dramatically lags behind what is received by their counterparts within the private sector. For example in 1999, the average total compensation for a Director of Public Affairs in a medium- sized private firm (defined as a business with revenues of less than \$300 million) was more than the average total compensation of a member of the Senior Executive Service. The average total compensation of a Chief Executive Officer in a medium- sized firm was more than 4 times that of a Senior Executive Service member.²⁸

The effects of pay compression at the upper levels of federal employment reverberate throughout the entire civil service. As of 1997, the average pay differential between comparable federal and private sector jobs was 22 percent with the greatest difference coming in the more highly skilled professional and administrative positions.²⁹ Graduates of schools of public policy and administration, who have traditionally formed a significant part of the applicant pool for these highly skilled federal positions, have increasingly turned to the private and non-profit sectors for employment. Those graduates who do not

choose to start their careers within government are highly unlikely to consider government service in the future, as federal salaries and benefits frequently fail to entice mid-level professionals from other fields.³⁰

Pay ceilings are also a prohibitive factor for prospective political appointees when considering public service. In a survey conducted by The Presidential Appointee Initiative of executives from the private and nonprofit sectors, 70 percent of respondents indicated that higher pay would make a political appointment more attractive.³¹

VIII. Trust in Government

Although surveys demonstrated that public trust in government surged in the wake of September 11th, recent research suggests that public trust levels are declining towards pre-September levels. Following up on data obtained in October 2001, a Brookings' Center for Public Service survey conducted in February 2002 found that in four months the public's favorability ratings of presidential appointees and federal employees had dropped by 11 and 9 percentage points, respectively.³² Federal employees have suffered the brunt of years of negative media coverage and public indifference to the federal civil service. Perhaps as a result, 41 percent of surveyed federal employees report that the morale of the people they work with is either somewhat or very low.³³ Improving the public's perception of government is crucial for ensuring the future health of the public service.

IX. Resources for Performance

Research suggests that the federal civil service needs better access to training, information, technology and additional employees with critical skills. Forty

percent of federal employees surveyed reported that the organization in which they work only sometimes or rarely provide access to the training they need to do their jobs well.³⁴ In another recent survey, when given an open-ended chance to describe the reforms that would best serve their organizations, 51 percent of responding federal employees said that the government should improve the resources and tools made available to employees.³⁵ Although some agencies have acquired the necessary information technology to perform their missions, others have struggled with the demands that the advances in technology have presented. The State Department, for example, has such an outdated computer system that Germany and some other foreign governments bypass American embassies and e-mail Washington directly.³⁶ The department runs four separate, incompatible computer systems that cannot access the Internet and it is dependent upon a cable system developed during World War II for much of its diplomatic communications.³⁷

X. Outsourcing

Although the outsourcing of federal work has contributed to the reduction in the size of the civilian workforce, there is a paucity of research that actually examines the ways in which this development has fundamentally altered the federal civil service. In the past 15 years, the federal civilian workforce has declined by more than 400,000 to 1.8 million jobs, but during the same time the number of service contractors has grown by roughly 500,000 jobs to 4 million.³⁸

Whether there has been a job-for-job switch between the federal civil service and private contractors remains unclear, as the executive branch has not been asked to track this movement.³⁹ The advent of outsourcing has had obvious effects on the morale of federal employees and puts the federal civil service at a disadvantage in winning the talent war for new employees. Potential employees, who demonstrate an interest in pursuing federal work, can now

often find the same type of work within the private sector. Among recently surveyed graduates of schools of public policy and administration, 30 percent of respondents working in the private sector reported that they spent at least 80 percent of their time on projects funded by government, and 25 percent reported spending between 20 percent and 80 percent of their time on such projects.⁴⁰

THE LEGISLATIVE AGENDA

Past efforts to restore the luster of federal service have been hampered by a lack of interest in incremental action. Unable to attract congressional or executive interest in small-scale adjustments from time to time, reformers have felt obliged to repair the system in giant bills such as the 1946 Classification Act and 1978 Civil Service Reform Act. No private business would survive long if it adjusted its human capital systems once every twenty-five years or so, yet that is exactly how we do it in the federal government.

The Homeland Security Federal Workforce Act (S. 1800) introduced by Chairman Akaka and Senators Durbin and Thompson, and the draft legislation proposed by Senator Voinovich and the Administration, offer a tandem opportunity to acknowledge that labor markets change more than once every quarter century. When combined with the Presidential Appointments Improvement Act introduced by Senators Thompson and Lieberman, we have the elements of the kind of reform that would clearly increase government's ability to compete for talent. There is no reason why the Senate and the House should not take these first steps, provided they are viewed as first, not final, steps in what will ultimately amount to an historic restructuring of the federal government's human capital system.

The Volcker Commission discussed these pending measures in our organizational meeting last week. While the Commission is not yet ready to endorse specific legislative proposals, it believes that the pending legislation addresses pressing problems, and that these first steps should be taken with the Commission's broad blessing.

Some research which the Commission will use in its work may be of value to the Subcommittee in this process. In addition, the Commission's partners are each working within their own areas of expertise and will provide additional research and studies to us at our July hearings. We will be glad to share that work with the Subcommittee as well.

An issue which was discussed by the Commission members, which relates broadly to some of the provisions of the legislation before the Subcommittee is that of managerial flexibility. There was a consensus among Commission members and our public interest partners that reform legislation should not be designed to prevent the most recent scandal. We cannot legislate away every abuse and mistake. A current example is the furor over abuse by a very few individuals of their government credit cards. That purchase program was put into place during the last administration with the assistance of this Committee. It has saved the government millions annually. We should punish those who abuse their public trust, but not the many federal workers who do not, or the taxpaying public at large, for wrongdoing by a very, very few.

Let me conclude by applauding the members of the Committee and its Subcommittees for your willingness to act. We have spent too much time these past ten years inventing ways to deny the problem, even as we eviscerated government through a random downsizing, ill-considered outsourcing, and an unrelenting attack on the human capital infrastructure. Now is the time to restore and renew our federal public service.

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TESTIMONY

ON

**THE FEDERAL WORKFORCE:
LEGISLATIVE PROPOSALS FOR CHANGE**

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SCHOOLS OF PUBLIC AFFAIRS AND
ADMINISTRATION**

**Hearing of the Subcommittee on International Security,
Proliferation, and Federal Services,
Senate Government Affairs Committee,
Tuesday, March 19, 2002**

The Federal Workforce: Legislative proposals for Change

Good afternoon, Mr. Chairman and Members of the Subcommittee on International Security, Proliferation, and Federal Services. My name is Carolyn Ban. I wear many hats that are relevant today. I am the dean of the Graduate School of Public and International Affairs at the University of Pittsburgh, where, I have to say, a decreasing percentage of our graduates are choosing to work in government. I am the President of NASPAA, the National Association of Schools of Public Affairs and Administration, which represents over 250 programs offering degrees in these areas. I am a scholar who has studied the federal civil service for over 20 years. And I am a former federal employee myself.

Impact of the Human Capital Crisis, nationally and in Southwest Pennsylvania

We have all read the reports of the impending human capital crisis. How severe the crisis will be, and how quickly it will hit, are not yet clear. But it is important to note that this isn't just a Washington issue. It will affect the whole country, both in terms of job opportunities and in terms of the quality of services we receive from the federal government. My students this semester are studying the potential impact of this crisis on Southwest Pennsylvania. We have found that the federal government is the second-largest employer in the region, with over 20,000 jobs. While about half of those are with the postal service, there are still over 10,000 people working for federal agencies covered by the Federal Civil Service system. My students' interviews with HR offices in the agencies showed a wide range of responses to the crisis, from some agencies (and I would put Social Security high on the list) that are aware of the coming crisis and are preparing carefully for it to other agencies that haven't even begun to think about it.

So the issues you are addressing in this legislation are serious. These are not just technical issues; they are issues that go to the heart of the values we want our federal government to embody. How do we support and improve the capacity of the government to meet the serious challenges we face as a society, while at the same time protecting the core value of merit that gives our government its legitimacy?

You requested that we respond to four questions. Let me briefly address each of them.

How would these proposals help recruit and retain the people agencies need to carry out their missions?

Competitive hiring and category rating

One of the most significant parts of the proposed legislation is Title II, section 202, on reform of the competitive service hiring process, which authorizes agencies, with OPM approval, to adopt a category rating system. This would allow agencies to rank candidates, not by numerical score but by overall merit. Category rating, which is called zone scoring or band scoring in other jurisdictions, is, in academic terms, like giving students an A or A- grade, rather than a 95 or a 94 on an examination.

The justification for this reform is very strong. First, even when we use valid written tests, they are not so accurate that a person who receives a 95 is necessarily better qualified than the person who got a 94. In fact, the way the Rule of Three is currently applied, if there were ten people who received the top score, the hiring official would only be able to consider three of them, and, in the case of ties, if veterans preference didn't apply, the agency would be forced to use random numbers to pick the three finalists. That is hardly a fair, equitable, or open system.

Second, it is important to note that category rating has been tried out in a Department of Agriculture Demonstration project, where it has been very successful. I have written, in the past, about the demonstration project provision of the Civil Service Reform Act of 1978 (See Carolyn Ban, "Research and Demonstrations Under CSRA: Is Innovation Possible?" in Patricia W. Ingraham and David H. Rosenbloom, eds *The Promise and Paradox of Civil Service Reform*, 1992). What I said then was that the idea of allowing agencies to suspend civil service law to experiment with new approaches was a very positive one, but that, for a variety of reasons, no successful demonstration project has actually resulted in a change of law allowing other agencies to benefit from what we have learned. This provision would be an important change that builds on Agriculture's leadership in developing and testing a new approach. Agencies would not be required to use it; rather, they can choose to do so when it makes sense for them.

I should also note that a number of state governments use category rating. New York State, for example, moved successfully to implement this approach. Their earliest attempts to adopt it were opposed by the unions because the top category was too broad, but subsequently they have allayed union anxiety about this approach, and it appears to be working well there.

Finally, category rating is compatible with our obligation to provide veterans preference. Indeed, the evaluations of the Agriculture demonstration project show that veterans actually fare better under this system.

Noncompetitive hiring: some concerns

On the other hand, I do have some concerns about the provisions for non-competitive hiring. I want to raise two issues. First, the categories of positions for which noncompetitive hiring can be used are very broad. I recognize that many managers in the agencies would support this broad definition, but I ask the committee to consider how many positions would not be covered by these categories. How many managers don't think they need expedited hiring for their positions, for example?

This section raises basic issues about the nature of the merit system and the requirement that positions be open to all citizens. We face here a difficult trade-off between pressures for speeding up the process and our commitment to an open and fair system. Pushing agencies to reform and speed up their competitive hiring, especially through the use of new technologies, is a real alternative, and there are some agencies that have done so very effectively. There is no reason that competitive hiring needs to take three months or even longer. Even with adequate time for posting, there's no reason the entire process can't be completed in less than a month, if the managers and HR staff can work together to streamline the process.

It is not clear from the summary of the combined bill that you provided whether the provisions in S. 1603 concerning use of grade point average for noncompetitive hiring remain. If so, I would also raise a question about that section. This section both expands and makes permanent the Outstanding Scholars program put in place over 20 years ago as a result of the Luevano consent decree, which allows managers to hire noncompetitively applicants with at least a 3.5 undergraduate Grade Point Average (GPA). Managers have made frequent use of the program, because it is one of the fastest ways to hire a new employee. But the research shows some problems with its use. Unfortunately, GPA alone is a weak predictor of future job performance. If we really want to attract an outstanding workforce, then use of GPA alone is not the best way to go. Even in evaluating academic performance, we would want to be able to look at the quality of the college or university and the relevance of the degree. Under Outstanding Scholars as it currently works, there is no requirement that the undergraduate degree have any connection to the position being filled. Further, there is no recency requirement. That is, the college degree could have been received 10 or 20 years ago and still be the sole basis on which someone is hired. Statistics for FY 2000, show that the average age for all new hires under Outstanding Scholars is 29.9 years, and the average age for veterans hired under Outstanding Scholars is 39.9 years.

In sum, if the legislation does include a noncompetitive hiring process, it should allow agencies to consider more than simply grade point average. Assessment of academic performance should include both relevance and recency of degree, and agencies should also be permitted to consider relevant experience and other credentials.

Recruitment, relocation, and retention bonuses

One section of the bill that will affect the ability of the federal agencies to recruit and retain top-flight employees calls for expanding agencies' abilities to use recruitment, relocation, and retention bonuses. This is an important tool, which is probably being underutilized, and I support giving agencies greater flexibility in the use of bonuses. Agencies will, of course, have to cover the costs of these bonuses, but they should be encouraged to use the bonuses strategically, and this provision gives them the tools to do so.

How do these bills contribute to better management in government and its effect on attrition?*Emphasis on a human capital approach*

The focus throughout the bill on a human capital approach, including designating a Human Capital Officer in each agency, and on human capital strategic planning is important and should, if carried out effectively, contribute to better management.

Phased retirement and revision of the system for computing annuities for part-time employment

I support the section of the bill calling for a study of phased retirement. We know that many senior people are going to be eligible to retire soon. Allowing phased retirement will prevent the loss of valuable institutional memory by permitting retirees to stay in place long enough to manage a smooth hand-off to the new leaders moving into those positions. It will also assist agencies in planning for impending retirements, something that is difficult to do under the current system.

Phased retirement would also be supported by section 209, calling for changing the computation of annuities under CSRS, especially for people who choose to move to part-time at the end of their careers.

Dealing with poor performers: legislative change or improved management?

Another management challenge is dealing with performance problems. This is an issue I have been studying ever since CSRA passed and I was charged with helping design the initial evaluations of the new process and standards for taking "performance-based actions," that is, disciplinary actions based on performance. These provisions did not have the desired effect, and agencies still tend to use the more traditional adverse action process. This bill includes two relevant provisions: One requires that agencies develop programs to provide training to managers on dealing with employees with unacceptable performance. That's worth doing, since some managers avoid taking action because they don't fully understand the system. The bill also calls for OPM to conduct a study with recommendations for streamlining the process, and that might lead to some meaningful change.

On the other hand, I do not support the change called for in section 211 of the combined bill, which would reduce the notice of termination from 30 to 15 days. I know that the National Performance Review report included that as a recommendation. But the real delays in the process are not at the notice stage. They are at the appeals stage, which can drag on for months or years. The government is required, by law, to follow due process

in these situations, and I am not sure the courts would support this provision. But its impact on the process is fairly trivial, and it does not address the chilling effect of the current appeals process.

All the research on this topic is clear. When managers get clear signals from their bosses, up to the top of the agency, that taking action against poor performers is appropriate, and that they will be backed when they do it, they will take action. When they get signals that, if they make the effort to deal with these problems they will be left hanging out to dry, they, quite sensibly, find other ways to deal with their problem employees.

Repeal of requirement for SES recertification

I should include, as a sidebar, that I support the provision in the bill for repealing the requirement for SES recertification. Agencies already had adequate mechanisms through the performance appraisal process for identifying SES members who were not performing adequately and for dealing with them. Because there was already low tolerance for inadequate performance at this high level, the recertification process has been just another paper exercise, with minimal added value for the costs incurred.

How do these bills contribute to an employee friendly environment? How do the proposals make the federal government more attractive to current and future employees?

Support for education and training

This bill provides strong support for education and training. The benefit here will be a double one: educational benefits will make the government a more attractive employer. And the provisions are written so that the education and training covered will be of direct benefit to the agency. I support the provision requiring agencies to link training activities to performance plans and strategic goals, to designate a training officer, and to require agencies to maintain adequate records of their training activities.

I also support the provision requiring agencies to develop training programs both for management succession and, as I mentioned above, to help managers to deal with performance problems.

And, not surprisingly, I strongly support the provision to allow agencies to pay for academic training, when it meets an agency need and is tied to a professional development program. Given the rapid changes in technology and in agency skill needs, the only way for agencies to stay current is to make sure their career employees have cutting-edge skills and knowledge, and one of the best ways to achieve this is by encouraging people to pursue academic degrees, including advanced and specialized education.

I also support the expansion of the National Security Education program in section 403 the combined bill.

Accrual of leave for newly hired federal employees with qualified experience

One of the problems agencies face, as they develop succession plans to deal with the projected loss of large numbers of mid-level and senior managers, is that the system is really designed for entry-level hiring. While agencies have the tools to hire new employees from outside government who have years of experience and management skills, managers have traditionally looked inside the agency or inside government. Years of budget cuts and controls on FTEs have only increased that tendency. And concerns about the speed of the hiring process for external hires have reinforced the tendency to promote internally. But agencies will increasingly be forced to look outside, and, when they do, they need to be able to compete with other employers for the best people. Giving new hires at this level leave only at the level of an entry-level employee is a disincentive to government service. This provision allows agencies to accrue annual leave at the higher rate that normally comes with several years of experience. It is a small, but useful, change.

How can the issue of compensation gaps between the public and private sector be addressed?*Pay provisions in the combined bill*

This bill does not call for fundamental changes in the General Schedule system of classification and compensation, but it does have several provisions that make needed adjustments to compensation. They include the following:

- Raising the cap on total compensation for SES members
- Streamlined critical pay authority
- Recruitment, relocation, and retention bonuses (discussed above)
- Correction of pay administration problems, especially in the special pay rates program

These are all worthwhile changes. They are not dramatic changes, and they will affect a relatively small number of employees, so I do not see them as having major budgetary impact.

Broader pay issues

I do think that it is time for us to take a broader look at both classification and pay systems in the federal government. Some issues require immediate attention. Raising the ceiling on SES pay would immediately reduce the projected retirements of SES members, and it is long overdue. But we need a better system for setting executive-level pay, so that we don't have to keep refighting the same fight.

And we need a better, more flexible system for classifying jobs and paying people what they are worth throughout the federal government. The current system has not had a major overhaul in over 50 years. It is based on outdated concepts of management and limits the ability of managers to use their workforce flexibly and to reward their top employees. It also hurts employees by limiting their ability to grow on the job. This lack

of flexibility, coupled with the unwillingness of the administration to fully implement the last pay reform, has definitely made the federal government less competitive as an employer. The need for more sweeping reform should not be a deterrent to passing this legislation. We need to move quickly to make these incremental changes, while at the same time, through the second Volcker Commission as well as through other efforts, we put on the table the broader questions: What should the civil service of the 21st century look like? Do we need to rethink the merit principles? Can we continue to uphold those principles while providing both managers and employees the benefits of a more flexible system for hiring, for managing staff, and for compensation? And is there an inherent conflict between our policies for contracting out some of the most interesting parts of what the government does and our desire to make public service attractive to people with skills, energy, and initiative?

TESTIMONY OF MAX STIER
PRESIDENT AND CHIEF EXECUTIVE OFFICER
OF THE
PARTNERSHIP FOR PUBLIC SERVICE

Chairman Akaka, members of the Subcommittee, thank you for inviting me to testify here today. I appreciate the opportunity to discuss the challenges facing the federal workforce today and to offer the Partnership's perspectives on the Federal Human Capital Act and the Managerial Flexibilities Act.

The Partnership was founded just less than one year ago in response to the very issues that this Committee is examining today. Skills gaps created during the downsizing of the 90's are soon to be exacerbated by a wave of retirements. At the same time, very few talented Americans see federal jobs as good jobs. All of the government activities that are so vital to us -- from protecting our country to regulating our markets -- will soon be severely threatened unless we improve the government's management of its most important asset -- its people.

I would like to use my time here today to focus on the importance of the Chief Human Capital Officer position that is created by the Federal Human Capital Act. The Partnership has worked closely with congressional staff in developing this proposal and we believe it is vitally important not only for the success of the measures you are considering today but also for the success of subsequent civil service reforms that this Committee may be asked to consider in the coming years.

Simply put, the Chief Human Capital Officer proposal is the logical continuation of a long process, begun under the first President Bush, to require agencies to manage for results. In 1990, Congress passed the Chief Financial Officers Act in order to improve the financial management of the federal government. The act required each federal agency to designate a person to serve as its Chief Financial Officer and to oversee all of the agency's financial management activities.

Although much remains to be done, the CFO Act has led to substantial improvements. Today, government operates with financial standards, financial auditing and reporting of these measures.

Six years later, Congress enacted similar provisions with respect to agency information practices, including the requirement that all agencies designate a Chief Information Officer. The Government Performance Results Act has also required agencies to track and report on the results they are able to achieve. These reforms, taken together, have put in place most of the structures that are needed to manage a high-performing organization. But there is one notable exception: human capital management.

The top corporations in this country uniformly acknowledge the importance of having a human capital officer in a position of top responsibility -- a position that is equal to other vice-presidents responsible for the organization's performance and success. Each of the top ten corporations on the Fortune 100 list has such a position. Jack Welch, the former CEO of General Electric, emphasized the importance of human capital management. He said "We spend all our time on people. The day we screw up the people thing, this company is over."

Government agencies that spend time on “the people thing” have realized results. GSA, for example, which has a human resources position similar to that envisioned by this Act, has consistently scored high on employee satisfaction surveys – one of the keys to successful retention of needed talent.

Just over one year ago, GAO Comptroller David Walker testified before this same subcommittee that the government’s human capital management had emerged as “the missing link” in the federal government’s performance management framework. Also in March of last year, the GAO designated human capital management as a government-wide high-risk area. Now, one year later, this bill proposes institutional reforms to close that link and fully incorporate human capital into each agency’s strategic planning process.

Both the Federal Human Capital Act and the Managerial Flexibilities Act propose to grant agencies broad new flexibilities and authorities in the hope of improving the government’s ability to recruit and retain the talent and skills that it desperately needs. I would urge the members of this Committee to think of the Chief Human Capital Officer as an indispensable agent of change, acting under the direction of the political leadership within each agency, who will be equipped with the authority and the expertise to ensure that these new authorities are deployed efficiently, strategically and to maximum effect.

The Chief Human Capital Officer is also the necessary precondition to the more comprehensive civil service reform proposals that are taking shape. We are proud to be working with the reconstituted Volcker Commission to help chart the path to an improved federal workforce. Important issues like reform of the pay and classification systems will have to be addressed and, hopefully, change will be implemented. These reforms are much more likely to have unintended and disruptive consequences if the strategic human capital planning capability within the government is not improved.

OPM has a vitally important role to play in carrying out the government’s human capital objectives, but it cannot manage recruitment and retention from afar. OMB’s management scorecard is an important step that has sharpened the focus on results in the human capital arena, but measurement alone cannot produce strategic implementation from agencies that are not equipped for the job. This is hard work that requires sustained effort focused through strategic planning. This is the role that the Chief Human Capital Officer will fill.

In order for the Chief Human Capital Officer to play this role, we believe that the current legislative proposal could be strengthened even further and we are eager to work with the Committee to accomplish this. Our suggestions focus on two areas. First, using competencies to select the right people for these positions; second, ensuring that these officers have a clear mandate to develop, use and report to Congress on meaningful measures of their agency’s human capital performance.

Using competencies to evaluate candidates is essential to the success of this proposal. This bill is not simply about putting a new label on positions currently held by

HR directors across the government, but about transforming the very nature of the job. The Chief Human Capital officer will be responsible for ensuring that the human capital processes are aligned with agency-wide objectives in order to produce the desired result: better government performance for our citizens.

This bill contemplates that the Chief Human Capital Officer for each agency shall be chosen by the administration based on established competencies that will include leadership, expertise and, most importantly, the demonstrated ability to manage change. The bill currently proposes to have NAPA review the question of how best to implement competencies across the government, but the Partnership believes there is no need for further study. Competencies for these types of strategic HR positions have already been well-established by NAPA and others and can be successfully applied to the selection of qualified Chief Human Capital Officers within the government. We stand ready to work with this Committee to expedite the implementation of this Act.

We would also recommend that the bill be amended so that the position of chief human capital officer cannot be filled by a political appointee. Neither CFOs nor CIOs are required to be filled by political appointees and with good reason. They do not develop policy. They ensure that the agency's resources are managed intelligently to serve the policy goals outlined by the administration. We believe that the purposes of the position can best be fulfilled by hiring based on a strict set of competencies from both within and outside the government. We believe the position could be structured either as an SES position or as a special contract employee like those utilized by the IRS to manage its reorganization process. The IRS model involves strict performance criteria and a five-year contract term – we believe both concepts would work very well in this context. In addition, there should be a clear line of authority for this position that reports directly to the Deputy Secretary.

Once the right person for the job is selected, it is critical that they have the tools they need for effective management. In our view, the most critical management tool is information. High-performing organizations cannot succeed without meaningful measures of their progress that are applied consistently over time. If you can measure it, it can change. These measures, also known as metrics, are not being developed or applied to human capital management as part of an overall strategic plan to improve agency performance. This bill recognizes this shortcoming and proposes that the development and implementation of appropriate metrics be one of the primary responsibilities of the chief human capital officer.

We would further strengthen this provision. Specifically, we propose that Chief Human Capital Officer be required to develop specified groups of metrics that are aligned with the agency's strategic plan. The bill should mandate a presumption that metrics will be established to measure such things as time-to-hire, success of recruitment efforts or employee development. One size does not fit all, however, and we would recommend that officers be able to rebut the presumed importance of these proposed metric categories by demonstrating to OPM that they are not relevant to the agency's performance goals. We believe the vast majority of agencies will be compelled to

concede that metrics in these areas are important, but we also believe that chief human capital officers should have the freedom to manage.

There are some additional features of this legislation that we would recommend be modified. Presently, the proposed Chief Human Capital Officer position can be filled by political appointees in some agencies (so-called “(b)(1)” agencies) and career employees in other agencies (so-called “(b)(2)” agencies). In addition to the issues we outlined above, there are several additional problems with allowing the Chief Human Capital Officer position to be filled by political appointees.

First, such a status would limit the power of the agency head to threaten removal if results are not achieved. Political appointees who are appointed by the President and confirmed by the Senate typically serve at the pleasure of the President. Second, if an existing Presidentially-appointed and Senate-confirmed officer is later designated as a Chief Human Capital Officer, there is substantial legal uncertainty about whether that would require a separate Senate approval of the candidate’s fitness to take on a set of responsibilities that would be distinct from those for which he was confirmed. Congress may consider such designations to be an end-run around their approval role. In light of these questions, it would be preferable to make it clear from the outset that the Chief Human Capital Officer is not a policy-making position that requires Senate approval.

The proposal also seems to require that Chief Human Capital Officers for smaller agencies be appointed from within the ranks of those “in the competitive service or the senior executive service” or to otherwise be “career appointees.” This seems to exclude the possibility of hiring from the outside, which we believe is crucial to the success of this proposal. In addition, the term “career appointees” is unclear. We would recommend that this language be modified to make it clear that the Chief Human Capital Officer position can be filled by someone from outside government, but that is a non-political position.

In order to encourage existing members of the Senior Executive Service to take on these responsibilities, we recommend that the bill provide that if a career person is designated as a CHCO and later loses that job, that they will retain their SES status.

We also recommend that the authority of the Chief Human Capital Officer be clarified. At the very least, the CHCO should report directly to the Deputy Secretary. The CHCO’s relationship to existing agency structures should also be clarified. We recommend that the legislation make it clear that the CHCO supplants existing agency HR directors and assumes their administrative authority as well as bearing the broader responsibilities outlined in this legislation.

The requirement that CHCOs “assess the current workforce characteristics and future needs based on the strategic plan and mission of the agency” should reference the similar agency mandate contained in the Government Performance Results Act (41 USC 4103) to make it clear that the CHCO’s responsibility does not preempt the agency’s overall responsibility under GPRA.

The CHCO also has been given broad access authority to agency papers and other materials that is analogous to powers given to agency inspectors general and creates potential problems with respect to confidential, proprietary and/or classified material within some agencies. We believe this authority is unnecessary since the CHCO will presumably be able to call on cooperation from others in the agency just as CFOs and CIOs do now. The authority is also misleading in that the CHCO is not intended to be an “inspector general” type position who is independent from agency management. To the contrary, the CHCO position is intended to be an integral part of senior agency management. For these reasons, we believe that these explicit powers of access to agency records are unnecessary and should be deleted.

The proposed bill provides that Chief Human Capital Officers will be compensated at level IV of the SES pay scale, which could be a drop in compensation for high ranking members of the Senior Executive Service. We recommend that the language be clarified to ensure that current employees will retain their current pay levels if they are designated as CHCOs. Moreover, we believe that agencies should have the discretion to offer higher starting salaries if justified by the candidate’s qualifications and expertise.

The Partnership has also heard concerns from some quarters that the authority of the Chief Human Capital Officers Council is unclear. We believe the appropriate model is the existing Chief Human Management Council. Like that body, the CHCO Council would play a coordinating role, but have no separate grant of authority to contravene the decisions of agency heads. A clarification to that effect would be welcome.

Separate and apart from the Chief Human Capital Officer proposal, there are many other provisions of both the Federal Human Capital Act of 2001 and the Managerial Flexibilities Act that would enhance the ability of the federal government to attract and retain a highly talented and motivated workforce and we support the enactment of those provisions. For example:

- The authority for agencies to establish a category rating system for evaluating job applicants for positions in the competitive service is a practice that has proven to be an effective way of selecting qualified applicants. It gives managers better choices while preserving the important values of the merit system principles regarding fairness, diversity, and respect for veteran’s preference.
- The proposed extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement that would allow agencies to ease out individuals in positions no longer critical to the mission of the agency or to otherwise correct skill imbalances without losing the ability to fill an essential position could provide a much needed workforce “shaping” tool.
- Adding flexibility to the authority to pay recruitment, relocation and retention bonuses to targeted employees needed to perform critical functions would be

another welcomed addition to the tools available to federal agencies seeking to maintain the workforce the nation deserves and needs.

- While it may seem minor or unimportant to some, enhancing annual leave accrual for newly appointed but highly experienced employees could make the difference in an agency's ability to attract needed individuals into mid-career level positions. This is consistent with the recommendations in a recent Partnership paper on mid-career hiring in the federal government. Further, we would suggest this authority be available when filling positions at GS-12 or above.
- Allowing for the possibility of additional alternative personnel systems through an expansion of the demonstration project authority is another worthy idea if used judiciously. One size does not fit all in today's complex government with regard to specific HR practices and programs.

As useful as many of these provisions would be, however, we would add a few words of caution. While there is clearly a need for additional flexibility—and variability—in federal human capital policies, programs, and practices, not every new proposal will be effective or desirable even if well intentioned. So, for example, the worthwhile goal of allow agencies to hire more quickly would seem to be served by allowing them to appoint candidates to certain positions without further competition on the basis of undergraduate or graduate degree grade point average. However, research on this issue is fairly consistent in finding that grade point average, per se, is typically not a good predictor of job success—especially when applied to a broad range of jobs and without regard to the field of academic study. So, for example, denying some applicants consideration for employment because their grade point average was 3.4 rather than 3.5 may not meet the criteria of “fair and open competition” that Congress placed into law in the 1978 Civil Service Reform Act.

In like manner, the concept of allowing agencies to appoint individuals into the competitive service without competition in certain circumstances is not flawed on its face and, in fact, is an option that has been available for decades when there has been a “severe shortage of qualified candidates.” However, should the trigger for this authority be expanded to include criteria as broad as “a need for expedited hiring,” then hiring without competition could become the exception that swallows the rule at least in some agencies.

Fortunately, it is quite possible to allow flexibility in human capital practices in a very beneficial manner. We simply need to ensure that whatever alternatives are developed are consistent with the values inherent in the statutory merit system principles and are based on reliable data and sound research.

The workforce challenges that the federal government faces are substantial, but they also create enormous opportunities to enhance the effectiveness of government and the prestige of the federal civil service. The two legislative proposals you are considering today would help to do both and we would be honored to help in any way we can.

Thank you again for the opportunity to testify and I look forward to answering any questions you may have.

TESTIMONY OF DR. STEVEN KELMAN, ALBERT J. WEATHERHEAD II AND
 RICHARD W. WEATHERHEAD PROFESSOR OF PUBLIC MANAGEMENT,
 HARVARD UNIVERSITY, JOHN F. KENNEDY SCHOOL OF GOVERNMENT,
 BEFORE THE SUBCOMMITTEE ON INTERNATIONAL SECURITY,
 PROLIFERATION, AND FEDERAL SERVICES, SENATE COMMITTEE ON
 GOVERNMENTAL AFFAIRS, ON THE FEDERAL WORKFORCE: PROPOSALS
 FOR CHANGE, MARCH 19, 2002

Chairman Akaka, Senator Voinovich, and members of the Subcommittee, I feel very privileged to have the opportunity to appear before you today to express my support for the Draft Managers' Amendment and for other actions this Subcommittee might initiate to help the federal government win the war for talent.

I am a professor of public management at Harvard University and have devoted my professional career to improving government management and to training young people considering careers in public service. With my colleagues Dean Joe Nye and Dr. Elaine Kamarck, I co-head a series of senior-level meetings being held at Harvard – involving government officials, members of Congress, union leaders, business and public policy school academics, and HR heads for some of the best companies to work for in America – called the Executive Session on the Future of Public Service. During the Clinton Administration, I worked for four years on Vice President Gore's "reinventing government" effort on improving government management. Today, trying to attract

young people into public service, I consider myself a frontline soldier in the government's war for talent.

Senators, as a teacher and as a citizen, I would like to suggest that everyone here today applaud you and honor you for the commitment to the public good – in the best traditions of the U.S. Senate – that you are showing by your interest in the issue of creating a world-class federal workforce. This is an issue that will never get headlines or win you an election. But it's important. It's the right thing to do. This is what statesmanship is all about.

Broadly speaking, we should have two big objectives in the strategic management of people in the federal government: (1) to hire as many talented, committed people as possible into government service, and (2) to create workplaces that will retain those people and motivate them to do their best on behalf of the public they serve. By achieving these two goals, we contribute towards our ultimate objective, which is to create a government that delivers results to the American people.

These two objectives require far more than just legislation. But we should judge the actions of Congress – whether they be through legislation or oversight – against the test of what they do to further or harm attaining these objectives.

Judged against the standard of increasing the chances that government will be able to hire talented, committed people, there are a number of provisions in legislation the Subcommittee is considering that are particularly important. Although today's hearing is not on S. 1800, the Homeland Security Federal Workforce Act, I would like to endorse the provisions of that bill establishing National Security Fellowships, a National Security Service Corps, and expanded student loan repayment. On the latter provision,

many of our students feel unable to take government jobs on graduation, when they have much better-paying private-sector offers, for fear that an exorbitant part of their salary will go to debt repayment.

Judged against this same standard, the most important provision of the Managers' Amendment is Section 202, which would expand governmentwide the authority to use the "category ranking" system for new hiring from a successful pilot at the Agriculture Department and a number of other agencies. I strongly endorse this improvement.

Why this important? Basically, the problem with the current system – the so-called "rule of three" – is that, for a number of reasons, agencies only use a limited number of formulaic criteria, such as which courses one has taken or how many years of experience one has at a certain job, in choosing the top three candidates. These candidates are then the only ones the actual hiring manager may consider. Once candidates are presented to the hiring manager, a fuller range of considerations may be brought to bear in deciding who is likely to be best at the job – such as a previous record of public service as demonstrated by participation in Teach for America or Americorps, or a strong work ethic as demonstrated by heavy courseloads or significant part-time work. Since the hiring manager has the authority to look at candidates more fully, the goal should be to give that manager more candidates from whom to choose, rather than artificially limiting the number to three chosen formulaically by personnel specialists with no stake in the performance of the unit that is doing the hiring. This is what category ranking does.

There is another important reason for eliminating the archaic "rule of three." Currently, managers who have identified promising candidates, say through interviews at

job fairs, often try to “game” the system to give the job a position description such that the promising candidate’s background will make it through the bureaucratic hurdle of the rule of three. This provides an awful introduction to government service to prospective federal job candidates – an image of a bureaucratic, hidebound government that is the opposite of an attractive employer.

Occasionally, the argument is made that the formalistic requirements of the rule of three are necessary to guard against racial or gender discrimination. In fact, the opposite is just as likely to be the case. Freed of the formalistic constraints of the rule of three, it becomes easier for a hiring manager to give credit to candidates who have shown a commitment to hard work through overcoming poverty or who would promote workplace diversity. In any event, the proper approach to combating workplace discrimination is to monitor trends in workforce diversity and to enforce equal employment laws, not to hamstring federal managers with a counterproductive bureaucratic straightjacket.

Another important provision in the Managers’ Amendment is Section 402, which allows agencies to use non-federal service as a basis for a newly hired employee’s leave accrual. This provision is important because it addresses one of the barriers to hiring people at mid-career from the outside into federal jobs.

Making it easier and more accepted for government to hire people from outside government at mid-career levels is crucial if the government is to take advantage of a talent pool now increasingly available because of changes in the attitudes of young people towards careers. As has been documented in a number of contexts, young people today seldom expect to start with an employer at the entry level and stay in the same job

for an entire career. If the government continues its traditional approach of hiring from the outside almost exclusively at entry and senior political levels only, we will lose access to many in today's generation who might like to spend some time doing public service as one stage, but one stage only, in a career with many different jobs. This also means that government needs to adapt so as to welcome people who may serve for a few years only, rather than an entire career. The reward for making these changes is dramatically to expand the talent pool available to government, in career civil service rather than political positions, for some period of public service, even if not for an entire career.

Also to encourage mid-career hiring, I strongly endorse the various measures suggested in the recent report of the Partnership for Public Service on mid-career hiring, particularly establishment of a mid-career version of the Presidential Management Intern Program, which I would urge the Subcommittee to make part of this bill. In addition, I would urge prompt passage of the Digital Tech Corps bill (S. 1913), which has been reported out of committee in the House and hopefully will pass that body soon. The Digital Tech Corps represents an additional strategy for making it possible for people who do not intend to devote their entire careers to public service to have an opportunity to use their skills and talents for a shorter period of time to help government.

Finally with regard to hiring the best talent, I would suggest two additional provisions for the proposed legislation. One is that the bill include a provision to amend 5 USC 201, which currently states that hiring and promotion decisions should be made based on the "knowledge, skills, and abilities" of candidates, by adding the word "accomplishments." The current language was written at a time when we did not have

the same focus on achieving results from government as we have developed over the last decade. A recent article in my hometown paper, The Boston Globe, about how private firms scan the resumes of job applicants caught my attention. The basic point of the article was that in looking quickly at resumes to decide which candidates merit further attention, private-sector HR people emphasize evidence of accomplishments. The article quotes one HR professional as follows: “If you just list responsibilities of previous jobs, excluding accomplishments, an employment manager is likely to say, ‘So what,’ and move on to the next resume.”

By contrast, current statutory language in Title 5 fosters a bureaucratic, formulaic preoccupation with ticket-punching and time-serving – number of years of experience, formal job responsibilities, and formal courses of study. The addition of the word “accomplishments” to the statute is obviously not a panacea, but it sends a powerful signal that we care about results and that we want to hire and promote people with a similar passion.

Second, I would suggest that the bill include a provision expanding the scope of existing Outstanding Scholar hiring authority to extend to the GS-9 level, from its current ceiling at the GS-7 level. Extending this program to the GS-9 level would allow the direct hire authority available for students with excellent academic grades to extend to graduates of master’s degree programs, such as master’s programs in public administration, public policy, public health, and international affairs. This Outstanding Scholar Program is important not only for the smart young people it makes it easier for the government to attract, but also for improving the image of the federal government as an employer at our nation’s universities. The more outstanding students accept federal

employment, the more attractive such employment becomes to other outstanding students considering job choices.

I am aware that the Merit Systems Protection Board, in a report they issued two years ago, argued that college grades were only a modestly good predictor of job performance. It is true that most studies show only modestly positive correlations between grades and job performance. But these studies do show a positive relationship between grades and job performance, even when these are the only two factors taken into consideration. And the only study of the Outstanding Scholar Program in government that the MSPB report discussed concluded, as MSPB itself notes, that employees hired through the Outstanding Scholar Program did better, in terms of awards and performance ratings, than those hired using the "rule of three" method. Nobody would suggest that grades be the only factor determining who gets hired for a job. In my view, the Outstanding Scholar criteria should be used not to make job selections with no further consideration of other criteria, but to generate a pool of good applicants who hiring managers may then choose based on other factors, including those with an even higher predictive ability for job performance. This opportunity, in my view, should be expanded.

Let me move to the other strategic goal I outlined earlier, creating workplaces that will retain talented people and motivate them to do their best on behalf of the public they serve. In this area, the battle will need to be waged primarily within the executive branch, indeed on the front lines of the federal workplace where the government either creates, or fails to create, high-performance workplaces that excite employees and produce results that serve the public. This was, of course, what you did, Senator

Voinovich, in promoting total quality management as an alternative to bureaucratic government while you were Mayor of Cleveland. The Administration includes many competent managers and executives who take the strategic management of people seriously; I urge that workplace redesign efforts – away from bureaucracy and process, towards responsibility and results-oriented – be a priority in the management of federal agencies.

This is an area where we still have a very long way to go. Surely, there are many, many exciting and personally rewarding career government jobs. But, as a whole, federal workplaces are still too mired in bureaucracy, hierarchy, poor supervision, and a lack of orientation towards results. They do too little to provide employees a sense of responsibility and accomplishment, or to train them for high performance. Just to take one small example, two Kennedy School students currently interviewing our own graduates two or three years into jobs in the federal government, compared with Harvard Business School students who had worked a similar period of time in Fortune 500 large corporations, note that those whose experience has been in corporations seem to be receiving far more mentoring and coaching from their immediate supervisors than are their counterparts in the federal government.

Jobs that don't motivate and that don't inspire devotion to producing results discourage young people from joining government in the first place. And they let the public down by not producing the kind of excellent performance that people have a right to expect in exchange for their tax dollars.

One feature in the Draft Managers' Amendment that will make a positive contribution to improving federal workplaces is the proposed changes in buyout

authority. These changes will allow buyouts without reducing an organization's FTE's, so that buyouts can be offered to people with skills no longer in need in an agency, while allowing such individuals to be replaced by people with skills the agency currently needs. The difficulty in changing skill mixes in government organizations is one impetus to contracting-out; to the extent that it becomes easier for government to change employee skill mixes, one artificial disincentive against keeping work in-house that might for other reasons best be kept in-house is removed.

I would urge the Subcommittee to hold hearings on private-sector practices with regard to "pay for performance" and to dealing with poor performers. There is some evidence that "pay for performance" creates problems, in the private sector, except under certain circumstances, and that private-sector firms struggle with dealing with poor performers as well. I support the thrust behind calls for greater use in government of "pay for performance" and for streamlining the procedures for dealing with poor performers, which is to achieve a results-oriented workplace. And I am deeply troubled by survey evidence suggesting the demoralizing effects of poor performers on conscientious employees. But I personally don't feel we around government understand private-sector experience in these areas well enough to propose quite yet new policies in these areas. I see this as a priority for the Subcommittee's future work in this area.

One legislative provision I would urge you to adopt in this bill would be to establish a governmental version of a "Rhodes scholar" program, where perhaps 25 outstanding employees about, say, five years work experience would be sent as a cohort to study public policy and management at a university for a year. I have outlined this proposal in a column I wrote recently for Federal Computer Week, which I would be

happy to provide the Subcommittee on request. A prestigious program of this sort could be a reward for good service by newer employees, an incentive to perform well, and a superb educational opportunity that would improve the skills of these employees and their ability to work together across organizational boundaries.

I also believe the decision to eliminate the labor-management partnership councils established during the Clinton Administration was partisan, vindictive, and mistaken. We all have a right to demand that federal employees and their representatives be guided by the ideals of public service, embracing a results-oriented workplace culture, and not by a narrow special-interest agenda. But we owe it to our federal workforce to involve them in workplace decisions, to show our respect for them and for their legitimate concerns, and also because such involvement can help gain buy-in for needed workplace improvements. I urge members of Congress to use their influence with the Administration to encourage revisiting this unfortunate decision.

Beyond legislation, Congress can play two useful roles with regard to improving job quality and results orientation in federal workplaces. One is its traditional oversight role in looking at agency practices, though I would urge the Subcommittee to showcase achievers rather than exclusively, as so frequently occurs, simply excoriating laggards.

The second thing to keep in mind is that Congress has significant influence – perhaps its most significant influence – on the quality of workplaces in government through activities that do not have the label “civil service reform” or “human capital crisis” attached to them. There is probably nothing Congress can do to encourage results-oriented workplaces more than continuing to push for making performance measurement, as pioneered by the Government Performance and Results Act, not just a

paper plan circulated between agency staffers, OMB, and congressional committees – but central to the everyday management of government organizations.

And we must never forget the Hippocratic injunction – “first, do no harm.”

Probably one of the biggest sources of counterproductive agency practices that create excessive rules and hierarchy, and that discourage and demotivate federal employees, is the “management by scandal” that much current congressional oversight activity encourages. We have a recent example in the sensational hearings on employee abuses of the government purchasing card. The hearings focused on a small number of examples of abuse. But if the reaction to these sensational reports were to be a curtailment of the government’s use of the card, over \$2 billion a year in administrative cost savings from reducing order processing costs will be lost. More importantly from the perspective of this hearing, federal employees would be deprived of one of the great quality of life improvements they’ve experienced over the last decade – a method to obtain simple items they need for everyday office use within hours or days, rather than waiting weeks or months as they had before.

Senators, you need to remember that every time the pursuit of scandal creates more bureaucracy in government, you are diminishing the attractiveness of government service and hence the government’s ability to deliver results.

Let me close with a message I bring to the Subcommittee from Michael Jung. Mike is a second-year student in our Master’s of Public Policy program from Ashland, Kentucky. He’s 27 years old and is representing the students as a participant in our Executive Session at Harvard. Mike says to you: “I take your deliberations very seriously, because there are lots of people in my generation who are interested in service. But we need to have faith that the government will value our abilities and challenge us to realize our full potential as professionals.”

Let’s not disappoint Mike.

Majority Subcommittee Memorandum
“THE FEDERAL WORKFORCE:
LEGISLATIVE PROPOSALS FOR CHANGE”

The Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services will hold a hearing entitled “The Federal Workforce: Legislative Proposals for Change,” on Monday, March 18, 2002, and on Tuesday, March 19, 2002, at 10:00 a.m. in SD-342. Senator Daniel K. Akaka will chair the hearing.

Introduction

After a decade of government downsizing, today’s human capital strategies— recruitment, retention, training, and compensation policies— are not adequately meeting the current and emerging needs of the government. This became more apparent after the General Accounting Office (GAO) placed the federal government’s human capital management on its High Risk List in January, 2001. Placement of the government’s human capital on the High Risk List highlights the fact that about 50 percent of the federal workforce will be retirement eligible over the next five years. While it is expected that only 2 percent of those eligible to retire will actually do so per year,¹ the eligibility statistics in conjunction with recruitment difficulties have amplified the impending crisis. The reduction in our federal workforce takes on even greater significance since it creates the risk that federal agencies will not be able to carry out their missions. The federal government faces these problems at a time when public demands are higher than in past years.

In addition to our loss of valuable federal employees, the federal government is having problems recruiting talented individuals. Prior to September 11th studies showed that the federal government was an employer of last resort for many college graduates. In addition, increasing student loan debt combined with highly lucrative private sector opportunities have had an adverse effect on the ability of qualified people to consider government service.

The Government Performance and Results Act of 1993 (GPRA) provides for the establishment of strategic planning and performance measurement in the federal government. It requires agencies to develop strategic plans and performance plans for program activities. Those performance plans are to: (1) establish objective, quantifiable, and measurable goals; (2) establish performance indicators; and (3) provide a basis for comparing program results with plan goals. As the federal performance management framework has evolved over the last decade, GAO has found that the government’s human capital management has emerged as the missing link. In particular, federal agencies are experiencing critical strategic human capital challenges including: strategic human capital planning and organizational alignment; leadership continuity and succession planning; acquiring and developing staff to meet agency needs; and

¹Friel, Brian, “Retirement wave may be smaller than expected,” *Government Executive Magazine*, May 7, 2001.

creating results-oriented organizational cultures.² According to GAO, for the performance management principles to produce a more businesslike and results-oriented government, agencies must recognize the indispensable role of people in this transformation.³

To respond to the issues raised by GAO, Senator Thompson (R-TN) introduced S. 1612, the President's Managerial Flexibility Act, on November 1, 2001 on behalf of the Bush Administration. Senator Voinovich (R-OH) introduced S. 1603, the Federal Human Capital Act of 2001, on October 31, 2001 and S. 1639, the Federal Employee Management Reform Act of 2001, on November 6, 2001. The legislation sponsored by Senator Voinovich is the result of a series of hearings held by the OGM Subcommittee during the 106th and 107th sessions of Congress. S. 1639 consists of many of the provisions of Title I of S. 1612, and portions of the bill are being melded into S. 1603. Provisions in these bills would streamline the hiring process and permit agencies to use expedited hiring procedures for hard-to-fill jobs. In addition, the legislation would give agencies permanent authority to offer early retirements and cash buyouts as ways to reduce managerial and supervisory positions and to reshape the workforce for jobs that require different skills.

The ISPFS hearing will review the human capital crisis facing the federal government, the various issues involved, and the recommendations made to solve the problem. In particular, the hearing seeks to find answers to the following:

- (1) How would S. 1603, S. 1612, and S. 1639 help recruit and retain the people agencies need to carry out their missions?
- (2) How do these bills contribute to better management in government and its effect on attrition?
- (3) How do these bills contribute to an employee friendly environment? How do the proposals make the federal government more attractive to current and future government employees?
- (4) How can the issue of compensation gaps between the public and private sector be addressed?

²U.S. General Accounting Office, "Strategic Human Capital Management: A Governmentwide High-Risk Area," *High Risk Series: An Update*, Jan. 2001, pg 71. GAO-01-236

³According to GAO, for performance management to succeed, three enablers will be needed: people, process and technology. All three are important, but the people dimension is the most crucial. Process was addressed by the Chief Financial Officers Act and related financial management legislation, as well as by the Government Performance and Results Act (GPRA). Technology was addressed by the Paperwork Reduction Act and the Clinger-Cohen Act. The people dimension has yet to find the broad conceptual acceptance or political consensus needed for fundamental reform to occur. *Id.*

Background

Today's nonpostal civilian federal workforce is smaller than it was a decade ago. From approximately 2.3 million federal employees in fiscal year 1990, the number was reduced to fewer than 1.9 million by fiscal year 1999.⁴ A summary of federal workforce downsizing trends across agencies is provided in Attachment A. These reductions were often accomplished through buyouts, the majority of which were used for those close to retirement. One criticism of the downsizing was that it was carried out without proper consideration paid to the implications of losing the institutional knowledge created by those leaving the government. Some also point to the creation of arbitrary downsizing objectives without sufficient planning for its effects on agencies' performance capacity. In addition, across the government, agencies reduced or froze their hiring efforts for extended periods. This combined effort not only reduced the number of employees, but it also reduced the influx of new people with new knowledge, new energy, and new ideas.

In addition, there is an aging of the overall workforce. Today, the average federal employee is 45 years old with more than half the workforce between the ages of 45 and 69. By 2005, 31 percent of the federal workforce will be eligible for regular retirement and an additional 21 percent will be eligible for early retirement. That means by 2005, over 50 percent of the workforce will be eligible to leave federal service. While it is estimated that only a small percentage of these employees will actually retire each year, especially now that the economy has taken a downturn, there is still the risk of a mass exodus which may result in these employees taking with them valuable and perhaps irreplaceable institutional knowledge. Such an event could leave the government with an inexperienced and ineffective workforce.

Retention

A critical part of federal workforce strategies is keeping the talent that already exists in government. Retention issues are a concern governmentwide. According to a 1998 Office of Management and Budget sanctioned report, the Information Technology Resources Board (ITRB) made several observations of management problems affecting the information technology federal workforce. Their findings are not much different than the management problems effecting the federal government as a whole. The ITRB found the following:

- ◆ Agencies had a poorly designed decision process and federal managers had a reluctance to make timely and difficult decisions
- ◆ Federal managers tended to be risk adverse
- ◆ IT workers were not valued as critical to agencies
- ◆ Federal officials had unclear responsibilities and an unclear understanding of how their work contributed to the success of the agency
- ◆ IT workers often became contract managers as IT activities were contracted out
- ◆ Federal workers complained about being "stovepiped" in agencies and not given the opportunities they need to advance their careers. In addition, there were too few opportunities within agencies to advance their skills.

⁴Office of Personnel Management, Federal Civilian Workforce Statistics (1990-1999).

- ♦ Some cited training opportunities being withheld because workers were too valuable in their current positions.
- ♦ IT workers also cited demeaning work practices such as micro-management and feeling of mistrust, citing restrictions on phone use, internet use, and telecommuting as examples.

As a result, the federal government must take action to retain those employees with important skills. In addition to solving the management and training issues, senior federal employees have cited numerous factors which would improve their working conditions. In particular, these employees cited career advancement opportunities (61 percent), a reduction in bureaucracy (62 percent) and increased staffing (51 percent).⁵ However, 70 percent of the participants said that competitive salaries would be a very effective solution to address the drawbacks of working in the federal government.

According to the Federal Employees Pay Comparability Act (FEPCA), federal employees are to receive compensation levels comparable to the private sector. FEPCA states that the disparity between non-federal and federal salaries was to be gradually reduced to 5 percent over the years 1994 through 2002 and that amounts payable may not be less than the full amount necessary to reduce the pay disparity to 5 percent in January 2003. While such a provision should significantly help in the federal governments' recruitment and retention efforts, FEPCA has never been fully implemented.⁶ If FEPCA were fully implemented, the 2003 locality payments would range from 22.41 percent to 46.79 percent. The payment recommended for the Washington, DC, pay area would be 28.93 percent.

OPM's strategic plan for FY 2000 to FY 2005, submitted to Congress on September 30, 2000, stated that the agency was coordinating a comprehensive approach to strategic compensation issues, researching best practices, and working with stakeholders to examine alternatives and formulate policy proposals for consideration by Congress by the end of FY 2002. OPM is expected to issue a white paper on compensation shortly.

Recruitment

With the risk of a large number of experienced employees retiring from government service in the near future, the government will have to hire a considerable number of younger workers to replace them. However, prior to September 11th interest in government service was at an all-time low. Surveys found that just 16 percent of college-educated workers expressed significant interest in working for the federal government.⁷ In fact, many young adults consider the government an employer of last resort. This negative image of the government is further exacerbated by the perception that the federal government cannot compete with the private sector

⁵Peter Hart & Robert Teeter, "The Federal Brain Drain: Losing a Two-Front Battle."

⁶ CRS Report. "Federal Pay: FY 2003 Salary Adjustments."

⁷Peter Hart & Robert Teeter, "The Federal Brain Drain: Losing a Two-Front Battle."

in terms of compensation and benefits. Even the traditional perceptions of government job security are called into question with frequent reductions the federal workforce and public-private competitions.

In the past few years, this country experienced a thriving economy, low unemployment, and excellent opportunities in the private sector. With such a wide array of attractive career options, the government has had to take a serious look at what it should do to win the war on talent. The consensus is that the government must make a greater investment in the pay and benefits for its employees, especially if it hopes to compete for and retain the technologically-savvy workforce necessary for government operations in a society increasingly driven by technology and information. Such an investment is particularly important for those students graduating from college with a high student loan debt. According to an August 2000 Department of Education report, student loan debt rose from \$16.4 billion to \$37.5 billion with the number of student loans granted rising from 4.5 million to 9.4 million.⁸ While the federal government is in the early stages of implementing its student loan repayment program, outstanding issues include funding for the program, tax implications, and repayment for private loans not covered by the legislation.

While interest in federal service has increased significantly with the general rise in patriotism following the events of September 11th the federal government must utilize its current momentum and show our young people that federal service is a rewarding and attractive career choice in order to continue to attract bright people after the economy improves and the war against terrorism has ended.

Existing Recruitment and Retention Tools

Despite recruitment and retention problems in the federal government, agencies are using existing flexibilities through the use of Demonstration Projects and Alternative Personnel Systems.⁹ While agency resources often dictate the use of these flexibilities, they are currently used across government. Several agencies are currently using some of the available flexibilities in demonstration projects. For example, several agencies use “pay banding” as a part of their performance focused pay demonstration projects. Pay banding groups the fifteen General Schedule grades into three to six broad bands based on career path and occupations. This procedure is intended to expedite staffing and better allow for performance based compensation. Agencies are also using Categorical Ranking to simplify their hiring process. For example, the USDA selects job candidates from a pre-approved pool of applicants. However, there is concern over the protection of veterans preference, since applicants are only selected from an approved

⁸ACE Fact Sheet on Higher Education, based on data from the U.S. Department of Education. www.acenet.edu/resources/fact-sheets.

⁹ Office of Personnel Management (OPM). Demonstration Projects and Alternative Personnel Systems. www.opm.gov.

pool. Agencies are also using a variety of retention incentives including recognition awards and leave flexibilities.

There are also additional flexibilities agencies may use to keep federal workers in government.¹⁰ Agencies may use alternative work schedules and flexible work schedules as replacements for traditional forty hour per week work schedules. Agencies may also allow employees to participate in Job Sharing, where two employees may coordinate their part-time schedules to ensure duties are fulfilled in a full-time position. Child care subsidy authority allow agencies to assist lower income employees with child care expenses. Agencies may pay up to 25 percent of basic pay to retain federal employee as a relocation bonus.¹¹ In addition to honorary and time-off awards, federal employees can receive cash recognition awards for up to 20 percent of their salary for exceptional performance.¹² However, because these incentives come directly from expense budgets, agencies generally do not have to provide these benefits. Quality Step Increases allow agencies to raise an employee's salary and step for outstanding performance outside the regular performance evaluation process. Agencies may also pay for job-related training and academic course work.

National Security Implications

The challenges facing federal agencies are not sudden developments. The Volcker Commission found in its 1989 report that the federal government had serious problems recruiting and retaining a quality workforce. The risks of ineffective recruitment and retention have profound national security implications. This is particularly important since it is estimated that over 40 federal agencies now have new or expanded homeland security roles and missions. Moreover, the U.S. Commission on National Security/21st Century issued its final report on March 15, 2001, and found that human capital is a key component in the defense of our nation. The report states: "As it enters the 21st Century, the U.S. finds itself on the brink of an unprecedented crisis of competence in government. The maintenance of American power in the world depends on the quality of U.S. personnel, civil and military, at all levels. We must take immediate action in the personnel area to ensure that the U.S. can meet future challenges."¹³ In testimony before the Subcommittee on Oversight of Government Management on March 23, 2001, Secretary James Schlesinger, Hart-Rudman Commissioner, stated that fixing the personnel problem is a precondition for fixing virtually everything else that needs repair in the institutional edifice of U.S. national security policy.

¹⁰Office of Personnel Management. Human Resource Flexibilities and Authorities in the Federal Government. www.opm.gov.

¹¹ Recruitment Bonuses also allow 25 percent of basic pay.

¹² Agencies may award up to \$10,000 without OPM approval, up to \$25,000 with OPM approval and over \$25,000 with Presidential approval.

¹³The United States Commission on National Security/21st Century, *Road Map for National Security: Imperative for Change*, pg. 87 (2001).

GAO Activities

The General Accounting Office has issued reports and has provided testimony on the various aspects of the human capital crisis. Below is a brief listing of relevant reports/testimony.

David Walker, "Human Capital: Meeting the Government Wide High-Risk Challenge" GAO-01-357T, Feb. 1, 2001.

David Walker, "Human Capital: Taking Steps to meet Current and Emerging Human Capital Challenges," GAO-01-965T, July 17, 2001.

"High-Risk Series. An Update," *Strategic Human Capital Management: A Governmentwide High-Risk Area*, GAO-01-263, pg. 71, January 2001.

"Human Capital: Managing Human Capital in the 21st Century" T-GGD-00-77

"Human Capital: Using Incentives to Motivate and Reward High Performance" T-GGD-00-118

"Human Capital: Design, Implementation, and Evaluation of Training at Selected Agencies" T-GGD-00-131

"Managing for Results: Human Capital Management Discussions in Fiscal Year 2001 Performance Plans" GAO-01-236

"Human Capital: Key Principles From Nine Private Sector Organizations" GGD-00-28

"Human Capital: Practices That Empowered and Involved Employees" GAO-01-1070

"Human Capital: A Self-Assessment Checklist for Agency Leaders" OCG-00-14G


Attachments

A. Federal Workforce Downsizing Trends

United States
Office of
Personnel Management
Wednesday March 13th, 2002

Federal Employment Statistics

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U.S. OFFICE OF PERSONNEL MANAGEMENT FACT SHEET
TOTAL FEDERAL CIVILIAN EMPLOYMENT (ALL AREAS)

AGENCY	AS OF DECEMBER 2000*	AS OF JANUARY 1993	CHANGE	% CHANGE
TOTAL	2,690,373	3,038,041	-347,668	-11.4
LEGISLATIVE BRANCH	29,727	38,303	-8,576	-22.4
JUDICIAL BRANCH	31,823	28,111	3,762	13.4
U.S. POSTAL SERVICE (USPS) & POSTAL RATE COMMISSION	867,395	782,980	84,415	10.8
EXECUTIVE BRANCH (Excludes USPS, Postal Rate Commission, & Census Enumerators)	1,761,378	2,188,647	-427,269	-19.5
STATE	27,952	25,982	1,970	7.6
TREASURY	143,721	165,904	-22,183	-13.4
DEFENSE, TOTAL	673,613	966,087	-292,474	-30.3
DEFENSE, MILITARY TOTAL	649,351	936,731	-287,380	-30.7
ARMY, MILITARY FUNCTIONS	204,214	288,866	-84,652	-29.3
DEPARTMENT OF THE NAVY	183,647	293,510	-109,863	-37.4
DEPARTMENT OF THE AIR FORCE	154,273	204,150	-49,877	-24.4
DEFENSE LOGISTICS AGENCY	23,886	64,501	-40,615	-63.0
OTHER DEFENSE ACTIVITIES	83,331	85,704	-2,373	-2.8
DEFENSE, CIVIL TOTAL	24,262	29,356	-5,094	-17.4
JUSTICE	126,340	97,652	28,688	29.4
INTERIOR	67,382	77,313	-9,931	-12.8
AGRICULTURE	96,673	113,687	-17,014	-15.0
COMMERCE	40,097 **	37,608	2,489	6.6
LABOR	16,207	17,719	-1,512	-8.5
HEALTH & HUMAN SERVICES (includes Social Security Administration)	126,999	131,066	-4,067	-3.1
HOUSING & URBAN DEVELOPMENT	10,317	13,292	-2,975	-22.4
TRANSPORTATION	63,823	70,086	-6,263	-8.9
ENERGY	15,645	20,706	-5,061	-24.4
EDUCATION	4,773	4,995	-222	-4.4
VETERANS AFFAIRS	220,151	260,349	-40,198	-15.4
ENVIRONMENTAL PROTECTION AGENCY	18,085	18,351	-266	-1.4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION	2,713	2,927	-214	-7.3
FEDERAL DEPOSIT INSURANCE CORPORATION	6,743	22,360	-15,617	-69.8
FEDERAL EMERGENCY MANAGEMENT AGENCY	4,796	4,554	242	5.3
GENERAL SERVICES ADMINISTRATION	14,117	20,690	-6,573	-31.8
NATIONAL AERONAUTICS & SPACE ADMINISTRATION	18,842	25,191	-6,349	-25.2
NATIONAL LABOR RELATIONS BOARD	2,034	2,132	-98	-4.6
NUCLEAR REGULATORY COMMISSION	2,862	3,539	-677	-19.1
OFFICE OF PERSONNEL MANAGEMENT	3,894	6,861	-2,967	-43.2
PANAMA CANAL COMMISSION	5	8,573	-8,568	-99.9
SMALL BUSINESS ADMINISTRATION	4,051	5,768	-1,717	-29.8
SMITHSONIAN, SUMMARY	5,053	5,512	-459	-8.3
TENNESSEE VALLEY AUTHORITY	13,103	19,129	-6,026	-31.5
BROADCASTING BOARD OF GOVERNORS	2,398	8,283	-5,885	-71.0
AGENCY FOR INTERNATIONAL DEVELOPMENT	2,329	4,218	-1,889	-44.8
ALL OTHER AGENCIES	26,660	28,113	-1,453	-5.2
* Preliminary; subject to agency revisions.				
** Includes 1,343 census enumerators for the 2000 Decennial Census.				
Note: As of October 1, 1996, the Defense Mapping Agency no longer reports 113 A data. The above statistics reflect a drop of about 7,000 employees as of that date.				
SOURCE: U.S. Office of Personnel Management Office of Workforce Information Monthly Report of Federal Civilian Employment (SF 113-A). 03/02/2001				

Down-sizing Data



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Questions/Comments to: owi@opm.gov



Glenn Reynolds
CreditSights, Inc.
March 18, 2002

CHANGES IN THE ROLE OF NRSROs

The debate over the role of the NRSROs has raged for years and we have seen a fair amount of harsh criticism of the economic inefficiency that is created by the protected NRSRO status, the market power they are able to exercise by virtue of the concentrated oligopoly that has been created, and by the lack of accountability to investors who might claim grievance under securities laws. Philosophy and ideology may drive much of the debate, but there is a need to make sure that the cure is not worse than the disease. What the market requires to function properly right now is more useful and reliable information and not weaker rating agencies. The main checks on the issuers that the investing public can look to are the SEC, the accountants, the underwriters, and rating agencies. The SEC cannot be realistically staffed by credit experts in light of the specialized skill sets that are required and the number of people that would be involved. The accountants have a narrower mandate than analysis, and in many cases they have proven as unreliable as the underwriters in taking a hard line on disclosure.

With the possible exception of the underwriters' due diligence team, the rating agencies should be the most effective party in the process at interpreting credit risk, and to revoke NRSRO status at this point would only undermine the one large and well established pool of analysts that are equipped to evaluate risk and share more information in the public domain. The conflicts of interest that one finds in the securities firms and commercial banks is almost self-evident at this point, and the NRSROs provide a sound check on the capital markets process.



That said, we believe that regulatory oversight of the rating agencies should be tightened. The SEC has specifically exempted the NRSROs from requirements under Reg FD, which means that the rating agencies are in a unique position to provide important information to both the market and to the SEC itself as part of the course of their routine operations. The immediacy of the challenge and the well-developed infrastructure at the NRSROs make them a very useful starting point to make rapid change. They need to feel much more pressure to upgrade the quality of their services apart from the issuance of ratings. They have the resources and profitability to meet the demands, but it is not entirely clear at this point that they fully recognize where they have failed and what additional steps they need to take. Their next steps have to go beyond just speeding up the rate of downgrades.

RECOMMENDATIONS

1. The SEC should retain NRSRO designations

We have read and heard many of the arguments over the years that say the market does not need NRSROs, that the designation is a violation of the free market, that there is adequate information and expertise in the marketplace now that they are an anachronism. From our own experiences with the debt underwriting process, Wall Street due diligence, and the approach that many companies take to providing disclosure, we could not disagree more strongly. The Enron situation underscores that we need more independent eyes in the marketplace not only as a safeguard, but also to be able to dig into information that could be a sign of material risks that are lurking behind ambiguous disclosure. The rating agencies are extraordinarily profitable and resource rich with manpower and



specialized skill sets. Even if one agrees that they have been delivering a lower quality product to the marketplace, which also is our view, they are at least in a position to take corrective action and to enhance the quality of information in the marketplace in a way that will provide value to investment decision makers.

The debt marketplace has grown more complex and more volatile, and we are now seeing more sophisticated multi-asset-class players engaging in investment strategies that have increased volatility across the capital structure from equities to bank debt and into related markets such as credit derivatives. One of the side-effects of the convergence of more asset classes is that information flows are faster and are often captured by those that can operate across the full array of these assets classes, where they can gain market information that allows them to profitably exploit market inefficiencies. That is just the market at work and we are comfortable with that aspect of the information flows. What we need to be more concerned about is that investors in certain securities classes such as bank debt and a range of privately placed securities will get disclosure that is not broadly available in the public domain. This is most notably the case for investors in bank debt, who routinely gain access to information for companies that is not disclosed in SEC filings. A more activist role for the NRSROs will level the playing field in such information delivery.

2. Set clear and specific criteria for new organizations to become NRSROs

The rating agency industry is a concentrated oligopoly and is likely to remain so even if the NRSRO designation was bestowed on more organizations. We recommend that the



SEC lay out very detailed and very clear criteria for what the requirements are going to be going forward to qualify as an NRSRO. In the unlikely event that investment capital were readily available to start a new major rating agency, it would be useful for the market to have a clear understanding of the requirements. While not likely to happen in the intermediate term, the growth in the global marketplace, the increased use of external rating agencies by a wide range of regulatory oversight bodies, and the likely development of more international rating agencies could set the stage for new market entrants. We consider the barriers to entry as almost insurmountable in the U.S. for a new and effective NRSRO, but the profit margins in the business, and the enormous benefits that accrue to the NRSROs could bring more competitors to the field as a result of mergers or financial sponsorship from a strategic investor. The threat of competition has a tendency to focus organizations on performance, quality, and execution, and would also attract more qualified personnel, so setting clear and objective (albeit challenging) criteria, would set the table for market entrants. If an organization does not have confidence in an objective set of criteria, then it will not be able to attract capital to fund the build-out of resources to qualify as even a limited purpose NRSRO.

We would argue that the struggles over the past decade of Fitch, IBCA, Duff & Phelps, and Thomson Bankwatch to make a meaningful dent in the Moody's and Standard & Poor's (S&P) franchises would not encourage a new market entrant as a general purpose NRSRO. We may see some limited purpose NRSROs start to develop, and we will see more develop globally when the Bank for International Settlements (BIS) moves ahead with its plan to utilize external credit rating agencies into its capital adequacy framework.



The opportunity for the creation of more NRSROs would more likely come from mergers of international rating agencies and limited purpose NRSROs with specialized industry knowledge. The more likely scenario is that the current Big Three NRSROs would acquire them. The potential for competitive pressure driving improved performance by the agencies is not very realistic, since revenue is driven by ratings and not by the quality of the research. That means quality standards will at least have to be regulated more aggressively by those that have blessed these companies with NRSRO status.

3. Require the rating agencies to disclose material risks that they find in the ratings review process even if the information has not been disclosed by management in financial filings.

The exemption from the requirements of Reg FD has left the NRSROs in a position to gain additional information that management may not choose to disclose, either because it is not specifically required to be disclosed or because the company chooses to omit such disclosure by virtue of the overused (and often abused) “materiality” guidelines. More rigorous, standardized disclosure takes time to work its way through the SEC and FASB, but the rating agencies should be able to focus routinely on the economics of unusually risky activities such as Special Purpose Entities (SPEs), counterparty concentrations, contingent liabilities, and rising structural risks in any kind of on- or off-balance sheet financing. These risks show up in a very distinct minority of the corporate sector, but those are the situations where the agencies could add the most value.



The rating agencies have often complained that companies are less likely to share the confidential information with them if they in turn make it public. If a company fails to disclose or discuss material areas of risk, or allow the rating agency to make that assessment on relative materiality, then the NRSRO should feel compelled to at the very least withdraw its ratings. In some cases, it may be more appropriate to even downgrade the company. If the rating agencies had taken a strong stand earlier with Enron to provide more detailed disclosure in the ratings review process, Enron might not have been so aggressive in continuing the shell game of off balance sheet contingent liabilities.

The parties most likely to possess the sensitive information that the agencies would be after are the commercial banks and underwriters on debt securities. We do not need to revisit the inherent concerns over Wall Street objectivity, but we would add that satisfying basic due diligence requirements on underwriting is a different mission than the rating agencies. The commercial banks/underwriters also often have more than a fee to be generated in these transactions. In many cases, the underwriting itself is a risk-mitigating transaction to the extent that a bond transaction is used to take down bank lines. We saw that repeatedly in the Enron transactions and most dramatically in the case of the credit linked notes. In addition, the ancillary fees on derivatives are often very lucrative so disclosure that jeopardizes the execution of the bond deal is not foremost on the priority list.



4. The rating agencies should report to the SEC any material risks that appear to be inadequately addressed in the public disclosure.

While knowledge of wrongdoing requires that the SEC be notified, the more common issue is the quality of disclosure on material risks. The NRSROs right now are exempt from Reg FD, but if they were given an additional mandate they could prove to be a very effective early warning system for the SEC's ongoing goals of improving the quality of disclosure. This is not an enforcement or watchdog role at all. It would be a natural offshoot of the NRSROs overriding mission to monitor the risks of securities and issuers that they have been paid handsomely to rate. Situations of this nature are likely to be few, but it would provide some guidance to SEC personnel who routinely review registration materials as part of the normal course of business. For example, Qwest currently has a shelf registration under review with the SEC. Qwest also has met frequently with the rating agencies and is on watchlist for downgrade by Moody's. It would be a very simple exercise for the rating agencies to send commentary to the SEC on what they have learned in their reviews or what would be useful disclosure for the marketplace. It does not involve additional staffing per se, and is a logical extension of their routine activities. If such actions were taken very early in the game on Enron, they may have been less likely to have kept replaying the SPE technique and making such liberal use of ratings triggers. Enron did not even disclose its bank lines in those days, and the requirement to disclose bank line details may have also raised earlier alarms.



5. The NRSROs should more frequently weigh on the analytical significance of various accounting quality issues.

Accounting quality has been an overriding concern in the aftermath of the Enron debacle and it is likely to remain so. The rating agencies have been notably quiet on the specifics of the accounting issues even though the debates have raged on some topics for long before the Enron problem. The use of fiber swaps and questions over the quality of revenue growth in the telecommunication sector had been in the headlines for months before Enron began to melt down. Similarly, the distortions associated with merger accounting and restructuring charges at Tyco International led to an SEC enforcement review back in 1999-2000 and Tyco has recently had another bout of accounting questions driving heightened volatility. The rating agencies regularly cite the fact that they are not auditors, but the fact is that an evaluation of the quality of the accounting is required to make sound risk assessment, and if they do not comment on the small number of very pressing accounting issues then the quality of the ratings will be called into question. In our dialogue with some ratings agency professionals they are quick to point out that they are not accountants. We agree with that narrow view, but would add that their mandate should include commentary on the quality of the numbers they use for their inputs. Otherwise, the quality of the outputs, i.e. the ratings, will be called into question. Hiring qualified staff to address the SEC issues is minor expenditure. Wall Street firms routinely hire accounting experts in their research departments, and there is no reason why the rating agencies are not commenting on such very important issues from their more objective platform.



6. Institute an appropriate registration and certification program for senior ratings agency analysts that have decision-making power on the ratings of securities and companies.

The rating agencies have less rigorous requirements for skill development and continuing education requirements than Certified Public Accountants, Certified Financial Planners, Insurance Agents, and Wall Street debt and equity analysts. There is ample room to require a level of commitment to quality standards and training that will help assure a proper level of focus on new market developments in accounting, financial risk, taxation, and the securities markets. The testing and continuing education could be specific to the broader category of responsibility so a structured products and quantitative research analyst is not looking at municipals or an industrials corporate ratings analyst is not expected to be a derivatives specialist. The CPA, insurance, and financial planners accreditation process lends itself to the subject-specific modular approach to certification and training. In the brokerage industry, the registered representative process is not an appropriate parallel, but the Supervisory Analysts testing process (Series 16) is a useful parallel. For practical purposes, testing and accreditation is a straightforward process one test content has been designed, and the firms pay the testing center for the costs of the examination. In the case of the Series 16 exam, the analytical part of the test can be waived in the event that Level I (of a three-part test) of the Chartered Financial Examination has been passed. This requirement would not be onerous or new, it would be at least consistent with a range of comparable disciplines that require testing, and would



be a step in the right direction in terms of quality control. Tens of thousands of analysts take the CFA exam every year, so the exam taking exercise is not onerous of new. It just may be to many at the NRSROs. Formalizing a process for an examination and certification would not be costly or without ample justification and parallels in the marketplace.

ENRON AND THE RATING AGENCIES

The agencies failed to use their leverage to extract crucial information

As we look back at the performance of the rating agencies in the case of Enron, we are hard pressed to recall a situation where the ratings agencies held so much sway over a company and had such commanding leverage to extract information, and yet were so ineffective at doing so. We were most troubled by the unwillingness of the rating agencies to detail the most important questions that needed to be addressed by Enron, and to clarify for investors exactly what questions the company would or would not address. The fact that Enron came out of various meetings with the rating agencies with its investment grade ratings intact led many investors to believe that many of the crucial questions were addressed. The problem in making this assumption is that the rating agencies only discuss in very general terms the issues that are dealt with and use the “confidentiality” of the issuer relationship as the rationale for not fully disclosing the questions that were satisfactorily answered.



The Enron fiasco has raised a considerable number of questions about the efficacy of the ratings system in flagging potential crisis situations that do not fit as neatly into the traditional analytical framework due to excessive financial engineering, poor disclosure, abuse of the current accounting system, or outright fraud. While it is hard to protect against management teams engaging in fraud, there are many cases where the areas of risk are clear, and the rating agencies are in a position to extract crucial material information on major areas of risk that may not have been made available to investors broadly. The rating agencies' exemption from Reg FD gives them a platform to be demanding of issuers and highlight areas that may be specific to a given issuer or industry and not effectively captured by GAAP requirement or by the often sweeping, general disclosure requirements of the SEC. Often the 10-Q and 10K disclosure gives management considerable latitude to make their own judgment on the level of detail and a threshold of materiality

Critical gaps in the agency commentary on Enron

We would point to a number of areas where the rating agencies failed miserably to highlight and address the risks that were critical to the direction of Enron's credit quality once it became clear that there were some serious problems at Enron. Much of the focus has been placed on the off-balance-sheet partnerships and the wholly inadequate disclosure there and questionable representations on the issue by Enron management. Beyond these areas, however, there are some other key factors that were inadequately addressed by the rating agencies in the weeks after the initial announcement of third quarter earnings on October 16th.



1. **Ratings triggers-** the rating agencies have indicated that one of the lessons from Enron was the need to explore more rigorously the existence of ratings triggers in any company's financing arrangements. Ratings triggers are ratings-based tests that "trigger" puts, the termination of a contract, or revised pricing and structure. They can run the gamut in terms of impact from fatal to modestly restrictive. The information that has come out of the agencies to date on the topic has not been satisfactory, and the fact that ratings triggers were not an integral part of the ratings review process to begin with is disturbing in itself. These were questions raised frequently in the days after Enron released third quarter earnings, and the rating agencies contributed very little to the dialogue on the subject. Even after meeting with Enron on their reviews, the agencies did not discuss the specifics of the questions posed to management. **We would highlight that this also has the impact of creating a very unlevel playing field in information flows since the counterparties on the "trigger" are usually the commercial banks and brokerage houses that are aware of the existence of such structural risks.** They could accordingly make risk management decisions that affect credit availability for Enron while holders of debt and equities remained unaware of such risks. More probing by the rating agencies and open discussion of what questions the agencies were asking would have made it clear to the market that the right issues were being addressed in the rating reviews.
2. **Counterparty credit line availability-** The collapse of Enron has been described frequently now as a run on the bank, and one aspect of the financial crisis that still



has not been very transparent is the extent to which tightening counterparty lines caused the liquidity crisis to accelerate. While we know it to be the case that tighter credit conditions and structural risks in existing contracts required collateral posting and even some contracts to be closed out, the pace and the timing remains unclear. Enron made repeated statements that trading volumes were holding up and that “notional” volumes were strong. The rating agencies added very little to the dialogue here as well, even in simply clarifying the risks that typify such derivative intensive operations. The analytical framework for such exposure is out of the traditional realm of a utility analyst, but there are few organizations outside the brokerage and commercial banking sector that rival the qualifications of the NRSROs in assessing such risks. To the extent that the Enron analyst could not handle the topic, the relevant rating committee should have drawn upon their structured product specialists to aid in such a crisis and bring the quality of the risk assessments to a higher level. There is a well established approach to evaluating theoretical credit lines and mark-to-market exposure by counterparty. It is an integral part of risk management practices in banking and brokerage and Enron was a very sophisticated trading operation. The agencies could have just requested the list of credit exposure to assess both current mark to market exposure by counterparty and any additional analysis that Enron had on maximum potential exposure. Failure of Enron to provide such schedules would have been a red flag but also ample reason to downgrade the company on a more expedited basis.



3. **Off-balance-sheet partnerships**- much is made of what Enron failed to disclose, but Enron also had ample disclosure in the market on the two structured deals that largely were responsible for driving Enron into bankruptcy. The Marlin and Osprey trusts had been major deals that had been rated by the agencies, had transparency in terms of the rating triggers, and had financial disclosure which, though out of date, gave the agencies room to focus on the cash flows and asset protection afforded creditors. Bondholders at those entities would have benefited from a more intensive review of the performance of those units since any shortfall in asset coverage would have fallen on Enron in the event of a downgrade below investment grade. There was also a need to have more detail on the asset sale prospects to reduce debt at these units and that aspect of the credit analysis was being stonewalled by management on conference calls.

It is not the speed ratings move; it is the quality of information

The rating agencies have responded to the Enron criticism by speeding up rating reviews, moving faster to downgrade companies, and by looking more closely at market data to gain more insight into market access and the risks to a company's financial flexibility. The quality and depth of the analysis has not changed noticeably, however, and the move to speed up ratings changes has met a mixed response from the market. Wholesale downgrades coming off a year of record issuance is creating a higher level of volatility since the response appears to be more a byproduct of the damaging criticism than a function of a coherent set of consistent policies. Investment grade credits historically have not been very volatile, and many investors would have purchased securities with a



sense of traditional rating agency behavior. As a result, watchlisting and downgrading securities in only a matter of weeks after a new issue has caused some degree of confusion in the marketplace. The time to take action would be prior to the new issues and not right after the new issue. There is a sense in the market that the rating agencies have gone trigger happy to overcompensate for Enron, and have in effect changed the rule of the game after collecting their record ratings fees in 2001.

ECONOMICS OF THE CREDIT RATINGS INDUSTRY

The credit ratings industry is one of the most lucrative in the financial services or the media sector based on massive profit margins and sustainable growth

Any attempt to put in effect policy initiatives that place greater demands on the NRSROs are certainly reasonable when one looks at the economics of the rating agency industry and considers the enormous financial benefits that have been bestowed upon them by the NRSRO designation. If the word “regulation” in general tends to connote the “carrot and stick,” it is clear from the financial performance of the ratings industry that a bushel of carrots have already been awarded to the NRSROs by the regulatory framework and that the use of more “stick” is more than fair. The stick can be more regulatory accountability and a requirement to substantially enhance the quality, quantity, and depth of information that they convey to the marketplace. The rating agency industry is one of the few private sector industries that provide a revenue stream where volume growth is almost guaranteed by a combination of regulatory fiat, the growth and convergence of the fixed income market, and the proliferation of structured products that require NRSRO ratings.



As of now, the economics of their business is heavily weighted toward fees that are paid to the agencies for “rating” companies, structured products, and a range of securities in different asset classes. **By deduction, that means that a disproportionately small portion of the NRSROs revenues are generated by published products and follow-on maintenance research that brings information to institutional investors and the investing public.** Subscription revenues are not crucial to the profitability of the rating agencies. That creates a certain irony in that companies that are in trouble and, by definition, are less likely to be issuing securities due to lack of market access, provide the lowest near term rewards for the rating agencies. It is also those companies that require the most focus.

Moody’s provides a window into the profitability of the ratings industry

Currently there are three main general purpose NRSROs that are major factors in the marketplace, but only Moody’s is a standalone public company (stock ticker MCO) with detailed financial disclosure. S&P is a division of McGraw Hill and Fitch, the #3 rating agency, is a subsidiary of FIMILAC, a French conglomerate that also operates in such businesses as hand tools and garage equipment. The financial performance of Moody’s is very revealing about the relative profitability of the credit ratings business. Moody’s is currently generating revenues at an annualized run rate of \$884 million based on the most recent results from the December 2001 quarter. Moody’s posted operating profit margins (operating income as a % of revenues) in excess of 50% and generated net margins (net income as a % of revenues) of 26.6%. To put those margins in perspective, General



Motors has had a long-standing goal of achieving 5% net margins. Moody's margins have trended higher over the past 5 years and, at the current run rate, revenues and net income have almost doubled. Moody's common stock has a market value of approximately \$6.3 billion and the company had net debt (debt minus cash) of only \$125 million at the most recently available balance sheet.

Rapid and profitable recession-resistant growth has been reflected in the company's stock performance and has even drawn the interest of Warren Buffet, who has reportedly accumulated a 15% stake in Moody's. Moody's stock has substantially outperformed the market both recently and over longer time horizons. The company is generating enough cash that it accomplished one \$300 million share buyback and has announced another \$300 million. We cite Moody's extraordinary financial results not to recommend the stock, but to highlight the benefits of limited competition and strong demand for ratings services. This sets a backdrop for the debates on what type of additional demands can be placed on the NRSROs and their ability to add additional value to the information flows into the markets.

An interesting aspect of Moody's results is that "ratings revenue" comprises 87% of revenues during 2001 while "other revenues" such as risk management services and selling research, only comprised 13% of the company's total revenues. The driver of the company's profitability is ratings and not the rigors of providing high quality, detailed research on issuers and industries. That has raised questions over time on the quality and depth of the monitoring mechanisms that the rating agencies have in place to provide



ongoing critical analysis of issuers since, quite frankly, that is not where they make their money and that is not what drives the company's stock.

Barriers to entry in the ratings agency business are high and getting higher

There have been many arguments made that the NRSRO designation in itself has created an insurmountable barrier to entry by limiting the number of NRSRO's. In theory, the type of profit margins evidenced here would draw market entrants, but the assumption is that the regulatory framework prevents that from happening. We believe that assumption may not fully reflect the reality of the rating agency business since the consolidation within the existing group of NRSROs has significantly narrowed the field. Fitch, which had formerly been a rather distant #3, has closed the gap in recent years by merging with IBCA (1997) and later acquiring Duff & Phelps and Thomson Bankwatch in 2000. We would point out that Fitch, while offering a range of solid products and achieving certain strengths in key sectors such as financial service institutions and structured product, still face a major task in competing with Moody's and S&P. The consolidation of the NRSRO industry reflects a great deal of competitive pressure from Moody's and S&P in penetrating the market and being embraced by mainstream institutional investors in the dominant US market.

While many risk guidelines are structured around the ratings from NRSRO, a great majority of formal and informal guidelines specifically cite Moody's and S&P. This is especially true in ratings triggers in derivative contracts and bank lines. It accordingly is an especially daunting task for new entrants to gain the traction to compete in the



NRSRO business. Even if the status of NRSRO was abolished tomorrow, most governing parameters in fixed income asset management specifically cite the agencies by name.

Strong demand growth is driven by regulatory requirements, firmly established and structurally imbedded portfolio risk parameters, and market practice

Ratings are essentially a requirement for market access, and the failure to gain ratings is costly and in fact would specifically preclude a borrower from reaching the largest pools of investment funds. The economics of issuance would be impaired and secondary liquidity characteristics of the securities would be poor. The ratings requirement spans the yield curve from commercial paper to long terms bonds. For example, prime money market funds are governed by SEC Rule 2a-7, which limits the percentage of assets with ratings below A-1/P-1. Such rules can have a dramatic effect on short term credit availability, and the stakes are even higher when a company loses A-2/P-2 ratings and gets effectively shut out of the commercial paper market. Losing access to the commercial paper market also has a great deal of significance for the risk profile of the banks that have provided back-up lines. We have seen a considerable amount of pressure on lenders such as JP Morgan Chase in connection with such lines being drawn down.

Capital adequacy assessments are also becoming more heavily influenced by NRSRO ratings. In the insurance sector, the NAIC also piggybacks the NRSRO system even though the NAIC does have its own rating system. For global commercial banks, the BIS has proposed the use of external ratings in assessing capital adequacy and this proposal is



still under consideration. Mutual fund prospectuses are often tied to strict NRSRO parameters or explicitly S&P and Moody's by name. It has been a challenge for other NRSROs to get these terms amended to be more inclusive specifically of the smaller NRSROs. As more fixed income products and fund offerings proliferate, the barriers to effective entry by other NRSROs become even greater given the frequency with which the established NRSROs have the names of their firms structurally imbedded in the stated risk parameters of the funds.

NRSROs are now moving into new high margin business lines

The recent acquisition of KMV, a provider of quantitative default risk models, by Moody's for \$210 million highlights that there are many new business opportunities for expansion outside the traditional ratings business. The offering of risk management products and services for a substantial fee raises some interesting question that have some parallel to the accounting versus consulting dilemma of the CPA firms. If the rating agencies start to move into the areas of risk management and advisory services, the primary clients will be the commercial bank, brokerage and insurance industry, originators of structured debt products such as collateralized debt obligations. These clients are also highly sensitive to their credit and claim-paying ratings. It will be critical for the SEC to monitor how these services are delivered to make sure that there is not even the hint of conflicts of interest. The rating agencies would be in a position to use some negotiating leverage on issuers that are sensitive to ratings but also have a need for risk management services.



Biographical Information

Glenn Reynolds is CEO of CreditSights Inc, an independent credit research firm founded in November 2000 that serves a range of subscribers in the debt and equity markets. Prior to CreditSights, Mr. Reynolds was a Managing Director at Deutsche Bank from 1997 to 2000 and served in a number of roles including Director of Global Credit Research and Head of Global Credit Strategy, overseeing analysts in New York, London, Frankfurt, Tokyo, Singapore, Hong Kong, and Sydney. Prior to Deutsche Bank, Mr. Reynolds was Managing Director at Lehman Brothers from 1986 to 2000 and served in a number of credit roles including Director of Global Credit Research and Chief Credit Officer. He also had primary industry coverage responsibilities in his career at Lehman, and was named to the Institutional Investor All-America Team eight times in a variety of fixed income categories including #1 ranking in four different areas. Prior to joining Lehman, Glenn was a senior analyst in the Capital Markets area of Prudential Insurance (1984-86), where he worked on a range of corporate, high yield and private placement portfolios. Mr. Reynolds was a Certified Public Accountant during his period of employment at Deloitte Haskins and Sells (1980-83). He graduated from Harvard College in 1980 with an AB in History and Economics and also received an MS in Accounting from NYU in 1981.

About CreditSights

CreditSights was founded by a group of analysts in November 2000 with backgrounds in the institutional debt markets both as institutional investors and as fixed income professionals in the securities industry. CreditSights does not manage assets, engage in



any underwriting activity, or accept any performance-based advisory fees. We have not sought to be an NRSRO and have no plans to do so. We also do not accept any compensation from issuers in connection with issuance or ratings of securities. We sell credit research on a subscription and fixed price basis to institutional investors and brokerage clients in the debt and equity markets.

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**GOVERNMENTAL AFFAIRS SUBCOMMITTEE
ON INTERNATIONAL SECURITY, PROLIFERATION,
AND FEDERAL SERVICES HEARING ON
FEDERAL WORKFORCE LEGISLATIVE
PROPOSALS FOR CHANGE
MARCH 18, 2002**

**QUESTIONS FOR KAY COLES JAMES
DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT (OPM)**

QUESTIONS FROM SENATOR AKAKA

QUESTION 1

In regard to Section 202 of the Substitute Manager's Amendment, reforming the Competitive Service Hiring Process: What was the effect of USDA's change from the hiring of employees based on selecting from the three highest numerically ranked applicants to hiring based on selecting any applicant that made the best-qualified quality grouping (categorical ranking), with absolute preference given to veterans? How would veterans' preference be protected in a categorical grouping or ranking system?

Answer

The purpose of the USDA demonstration project was to test a flexible and responsive staffing system that would permit managers to attain a quality workforce reflective of society. This was the first demonstration project testing a comprehensive simplification of the hiring system for both white-collar and blue-collar Federal employees. A key flexibility of this project was "categorical ranking." Under this process, applicants meeting minimum qualification standards are placed in one of two groups ("Quality" or "Eligible") based on predetermined criteria such as education, experience, and ability. All candidates in the quality group are available for selection, with preference within the group given to veterans.

The evaluation for the initial 5-year period showed that the number of candidates per job announcement increased, more candidates were referred to managers for selection, hiring speed increased, and there was greater satisfaction with the hiring process. There was no adverse impact on the number of women, minorities, or disabled hired, and more veterans were hired both at Agricultural Research Service (16.3 percent at the demonstration sites versus 9.5 percent at the comparison sites) and at Forest Service (18.9 percent at the demonstration project sites versus 16.7 percent at the comparison sites).

Significantly, survey data showed that managers were overwhelmingly in agreement that the categorical ranking process provided a better pool of candidates from which to make a selection. The management survey confirmed that managers strongly supported the continuation of the process and believed that it improved their ability to be responsive to local recruitment needs, while allowing them to hire a high quality workforce and meet diversity goals. Based on this record, Congress authorized the permanent establishment of this system at USDA in 1998.

Veterans' preference is protected because, as in the USDA demonstration project, there is a requirement that all preference eligibles in a group be listed ahead of nonpreference eligibles. In addition, as with current law, compensably disabled veterans who meet basic qualifications generally rise to the top of the highest quality category automatically. Managers may not pass over any preference eligible(s) within the group to select a nonpreference eligible unless they first receive approval under formal objection procedures outlined in current law and regulation. Adequate controls and accountability requirements will be built into the system.

QUESTION 2

Given the size of the reported "pay gap," how much of an effect do you think the changes to the special pay rate program and expansion of recruitment, retention, and relocation bonuses will have in improving the recruitment and retention of well qualified employees for Government service?

Answer

Currently, special salary rates are the Federal Government's primary tool to address pay-related recruitment and retention problems affecting groups of employees. OPM can target special rates to groups of employees in a particular occupation, grade, or location in order to ensure that Federal agencies are competitive in a selected labor market. Under current law, special rates may be set as high as 30 percent above the maximum rate of a grade—a limit that should be sufficient in most cases to deal with any pay-related recruitment and retention problems. However, pay administration anomalies associated with special rates currently discourage agencies from using them to full advantage. The proposed changes would improve the effectiveness of the special salary rate program and go a long way toward reinvigorating the program as a useful recruitment and retention tool.

Expanding the use of recruitment, retention, and relocation bonuses to make them more flexible and effective would enable agencies to use them in a targeted way to achieve the results they need — i.e., recruiting and retaining well qualified employees. The proposed changes would permit agencies to pay larger recruitment and relocation bonuses based upon a critical agency need. For example, an agency could pay up to 100 percent of an employee's salary with a 4-year service agreement, which could significantly reduce or alleviate the effect of any "pay gaps." In addition, the proposed changes would permit agencies to pay retention bonuses in installments (e.g., monthly, quarterly, or after an employee has completed an agreed-upon service period). This change would enable agencies to retain well-qualified employees until the completion of a critical project or for an additional specified work period. While it is difficult to quantify the impact of these changes, we believe they have the potential to make a significant difference in agency recruitment and retention efforts.

QUESTION 3

To achieve greater and more effective use of flexibilities, what actions should agency leaders take to move away from a “one size fits all” culture and what role and contribution should OPM make in assuring that the accountability for fair and effective outcomes keep pace with the use of flexibilities?

Answer

Each agency and department is unique in the terms of their workforce demands and missions, and agency leaders already recognize the need to move beyond a “one size fits all” approach in their strategic management of their respective workforces. Indeed, I am committed to ensuring the availability of all current personnel flexibilities to agency leaders in efforts to improve the management of their human resources. But we must do more. We must develop a contemporary statutory structure which grants agencies greater access to new and innovative HR approaches consistent with merit system principles. Our current system hinders the use of these flexibilities by placing administrative burdens on agencies when they want to innovate and test new HR strategies. That is why it is important that Congress move to adopt the provisions of the President’s Managerial Flexibility Act which will give agency leaders the tools they need to manage their workforces effectively.

Communication

OPM continues to work very hard to communicate to Federal agencies the human resource flexibilities that currently exist and how they can be used to address the agencies’ varying workforce needs. To help agencies become even more aware of all human resource flexibilities, OPM put together HR Flexibilities and Authorities in the Federal Government. This document is available on-line and has been used by Federal agencies over the last several years to help educate them on the latest human resource flexibilities.

In order to make the best use of flexibilities, agency leaders need to have a clear idea of what their agencies’ problems are and how they can use available flexibilities to address those problems. Agencies should have a strategy for implementing flexibilities and be sure that use of the flexibilities supports their various missions, objectives, and organizational cultures. If they delegate use of flexibilities down through the ranks, they need to be sure that managers, empowered to use the flexibilities, understand their flexibilities’ appropriate use and have a clear sense of the merit system principles. Agencies should provide internal follow-up to ensure that flexibilities are properly used. Agencies can use the current focus on human capital as an opportunity to analyze their specific problems and challenges, then design strategies that will best address their unique circumstances.

Accountability Measures

OPM will also continue to exercise oversight authority to ensure that the flexibilities are used fairly. Flexibilities have increased just as authority to use them has been delegated from human resources professionals to line managers. However, because of increased

retirement rates, there are now far fewer seasoned professionals to advise managers on how to make the best use of their human capital. And, it only follows that, when managers have more options and less guidance, they may make poor decisions.

Realizing this, OPM has taken steps to hold managers accountable for their decisions. Based upon authority granted by Executive Order 13197, I called on agencies this past January to develop an internal HRM accountability system. I provided accountability system standards that help ensure that human resources management programs are strategically aligned to support the mission, that they are effective and efficient, and that they promote merit system principles.

OPM's Role

- 1) Develop regulations, guides/handbooks and other tools that provide a framework for human resource flexibilities;
- 2) Help guide agencies in the process of analyzing problems and developing a coherent, agency-specific human capital strategy;
- 3) Educate agencies on available flexibilities, including what they will (and won't) do;
- 4) Serve as a clearinghouse, analyzing and sharing information across agencies; and
- 5) Monitor use of flexibilities to ensure fairness, merit, effectiveness, etc.

QUESTION 4

In your view, are the Government's supervisors and managers adequately trained to carry out these responsibilities? What competencies will be required of senior human capital leaders to effectively carry out their role as envisioned by the Substitute Manager's Amendment?

Answer

We believe that Government's supervisors and managers as a whole are not adequately trained to carry out these responsibilities. Past studies have shown that supervisors are not prepared to meet these demands because they are often selected solely on their technical knowledge with little attention paid to their leadership abilities, including the broad array of interpersonal and management skills needed to meet today's management concerns.

Little is done by agencies to identify potential supervisors early and provide the developmental programs and classes in leadership. In OPM's FY 1999 study, *Supervisors in the Federal Government: A Wake-Up Call*, we found that while policies are in place for agency tailored leadership development programs, only 4 of 20 agencies surveyed had formal internal leadership development programs that prepared employees to become first-level supervisors. In fact, interviews with supervisors indicated that, in many cases, agencies worked backward in selecting people for supervisory jobs and then sent them to developmental training.

The supervisors we surveyed also believed that leadership development was given a low priority. When budgets become tight, development is the first item to be cut, particularly "soft skills" development such as leadership development. In a related survey we

conducted within the U.S. Department of Agriculture Graduate School, we found that 63 percent of the supervisors surveyed received 40 hours or less of supervisory developmental training during their first 2 years. They came to the job without leadership development training and they received very little after assuming their new responsibilities. First level supervisors are a significant feeder group for higher-level management and executive positions, making the leadership development issue even more critical.

To address this set of problems, OPM has developed a Leadership Competency Model as a tool for agency use. This model incorporates the competencies necessary for high performing leaders. In our study, second-level managers identified similar qualities for potential supervisors. They want employees who are technically competent in their profession; are flexible; complete projects on time; have good interpersonal skills; demonstrate initiative by taking on greater responsibility; communicate effectively both orally and in writing; and possess good negotiation skills. Unfortunately, our study did not find widespread use of the model or a similar tool to identify potential supervisors or to develop talented non-supervisory employees for future leadership positions.

Meanwhile, agency leaders are being asked to take on still more human capital responsibilities under the expanded scope of authority envisioned in the legislation. While most managers are conversant in the mainstream issues of incentive awards and performance appraisals, there is often a dearth of knowledge in the other critical areas, such as, dealing with poor performers and understanding human resources management (HRM) accountability. Without this knowledge, managers' lack of comfort with the subject inhibits their engagement in taking on these responsibilities.

To stimulate agency action on this issue, OPM has included a Leadership dimension in the *Human Capital Scorecard* that supports the President's Management Agenda. This document requires agencies to enhance the quality of their Leadership by ensuring that high performing leaders are recruited, *developed*, and retained. Agency performance in meeting this goal will be regularly assessed by OPM, providing a focal point for ensuring that agencies develop the means to identify and address human capital competency gaps among their leaders.

QUESTION 5

GAO data show that, Government-wide, 63 percent of Federal managers report they are held accountable for results, but 36 percent report they did not have the decision-making authority to achieve these results. What steps will OPM take to make agencies aware of and encourage them to use the flexibilities available to them? In your opinion, why will managers choose to use the flexibilities offered in the Substitute Managers' Amendment, when most do not use existing management flexibilities?

Answer

OPM understands the critical importance of ensuring that Federal agencies are fully informed of all the human resources (HR) flexibilities available and that Federal agencies incorporate existing HR flexibilities to align their Strategic Human Capital Management

planning with their mission. We continue to work very hard to communicate to Federal agencies what HR flexibilities exist and how they can be used to address their agencies' varying workforce needs. To help agencies become even more aware of all HR flexibilities available at their disposal, OPM has maintained the document, *HR Flexibilities and Authorities in the Federal Government*. This document is available on-line and has been used by Federal agencies over the last several years to fully educate themselves on the latest HR flexibilities.

Clearly, though, more work needs to be done to ensure appropriate use of flexibilities. In this regard, we believe that increased shortages of well-qualified candidates in mission-critical positions will drive agencies to more proactive use of many underutilized HR flexibilities that have been delegated by OPM -- in addition to the new and expanded flexibilities covered in the proposed legislation. OPM is encouraging this change of attitude by its emphasis on human capital in support of the President's Management Agenda, and by our ongoing efforts to assist agencies to improve their human capital management.

The idea is to help agencies better understand how using flexibilities can address their problems in talent, performance, leadership, and other areas of human capital, and to hold them accountable for doing so. OPM can also exercise its leadership role with the Cabinet-level departments by helping them better inform their subordinate organizations. In this way, use of flexibilities will be driven down to the lowest levels of the organization.

QUESTION 6

In response to OPM's amended regulations, agencies this year were to implement performance management systems that hold Senior Executives accountable for a balanced set of measures: organizational results, employee perspectives, and customer satisfaction. Are agencies implementing these performance management systems? As OPM moves from "rules to tools," how would you describe OPM's role in support of its regulations?

Answer

Agencies are revising their performance management systems, in accordance with the regulations. We view OPM's role to be that of leadership, consultation, technical assistance, and oversight.

Leadership

OPM sets Government-wide policy and direction. We established a broad framework within which agencies have a great deal of flexibility to design and manage performance systems that are tailored to their unique and changing missions, cultures, and needs. OPM works directly with agency top management and encourages top level support and involvement in promoting a climate for excellence and accountability. OPM is using the Human Capital Scorecard Initiative to bring pressure on agencies to take performance management seriously and to use performance as a tool to achieve mission results.

Consultation, Technical Assistance, and Oversight

We consult with agencies on progress in achieving results-based performance systems and provide guidance and technical assistance as needed; share information and tools with agencies about public and private sector methods and innovations; and encourage agencies to share their experiences to learn from each other. In exercising our oversight responsibility, we work with agencies to ensure that their systems comply with the law and regulations through system approval and periodic evaluations.

Consistent with the new regulations and our enthusiastic support of the President's Management Agenda, OPM revised its internal performance appraisal system to make it clear that each OPM executive will be held accountable for progress on the 5 Governmentwide initiatives in the Agenda, as well as special emphasis areas, like workforce diversity and emergency planning.

QUESTION 7

In the past, the performance rating system for Senior Executives was not used to make meaningful distinction in performance. OPM data indicate that agencies rated 85 percent of their executives at the highest level their systems allow. What are OPM's plans to monitor the distribution of ratings to ensure that truly outstanding performance is rewarded in the Senior Executive Service?

Answer

Key to achieving the President's goal for Government reform is accountability for results. It is essential that we hold our workforce, beginning at the top management and senior executive levels, accountable for their performance. This is a critical element of the strategy for improving human capital management. Annual performance appraisals are one means of assessing and recording progress and a basis for using performance results to reward good performance and to address poor performance issues.

Agencies report performance rating distribution and bonus information to OPM annually, at the end of their SES performance rating cycles. We review and analyze the data as one means of determining if agencies are using performance management as a tool for holding senior executives accountable and for driving results. We are increasing our oversight of data reporting, looking for indicators that agencies are taking performance management more seriously, realistically evaluating performance, and making meaningful distinctions among performance levels. We are completing a review of rating information reported for Fiscal Year 2001, and are preparing a comprehensive report on the results of that review for the President's Management Council and other interested stakeholders. We will use the results of this review to determine the next steps.

Our preliminary findings indicate that in FY 2001, agencies did make more meaningful distinctions in SES ratings. For example, within OPM, only 37% of our career executives outside the Office of the Inspector General were rated at the highest level in FY 2001, compared to 90% in FY 2000.

QUESTION 8

Your testimony on March 18, 2002 emphasized that the proposals in the Substitute Manager's Amendment and S. 1612 are designed to speed up the hiring process and are essential to the Federal workforce. Both the Manager's Amendment and S. 1612 include provisions for noncompetitive hiring for difficult-to-fill positions.

8a) What are the criteria for determining a difficult-to-fill position, and who makes this determination?

Answer

The agency makes a difficult-to-fill determination based on criteria that OPM will provide by regulation. Criteria may include insufficient qualified applicants despite active recruitment efforts; high percentage of declinations and/or failures to respond to job offers; and/or surge hiring when the number of vacancies far exceeds the applicant pool.

8b) What Federal positions would not be covered by this proposal?

Answer

We do not propose to exempt any specific position(s). Each appointment under the proposal would have to meet OPM-established criteria and we do not want to restrict any Federal position from potential inclusion.

8c) How can we achieve a balance between pressures to speed up the hiring process and our commitment to an open and fair system?

Answer

We believe that technological advances made to the hiring process can accomplish both. All vacancies for which agencies are recruiting outside their workforce continue to require an open announcement period. However, agencies may determine how long the period should be based upon the nature of the position and availability of candidates. Current OPM-developed software, as well as private sector developed programs, can significantly reduce the processing time from announcement closing to certificate referral. Managers then should act quickly to make selections. All of this will speed the hiring process.

Fair and open competition and veterans' preference are the foundation of the civil service. The proposed legislation does nothing to hinder or hamper these principles.

QUESTION 9

Your testimony supports the creation of permanent authorities for Federal employee "buyouts" and early retirement incentives as a way for agencies to change their "skills mixes." As you know, about half of the Federal Government will be eligible to retire in the next several years. The permanent extension of these authorities raises questions about what skills will be lost and how recruiting strategies can bring this expertise back into Government.

9a) How will OPM ensure that the expertise lost as a result of early retirements and early separation is balanced with talent brought back into Government?

Answer

At present, approximately 12 percent of the workforce is eligible for optional retirement, and 19 percent is eligible for early retirement. By the end of FY 2005, approximately one of three current Federal employees will be eligible for optional retirement. Fortunately, not every employee eligible for immediate retirement actually retires at the time of first eligibility.

The voluntary early retirement and voluntary separation incentive payment options will, primarily, increase the voluntary attrition of employees with obsolete work skills. To restaff agencies' personnel rosters with employees who have state of the art work skills, OPM is actively involved with agencies in all aspects of the recruiting and staffing process. This includes increased use of automation available through new technology, adoption of categorical ranking and direct hire to replace those who leave, as well as hands-on education of agencies concerning available staffing flexibilities.

Looking towards the future, OPM has a key role in the Administration's long-term "Strategic Management in Human Capital" project. OPM is keenly aware that human capital is based on the premise that the effectiveness of the Executive Branch is largely dependent on the employees who work in the individual agencies. The goal is that human capital will provide the bridge that results in effective succession planning as agencies simultaneously retain critical institutional knowledge while filling key positions that require different core knowledge and skills.

9b) As you know, the Federal workforce is a source of valuable institutional knowledge and transferable skills. Do you also see the retraining of existing Federal employees as a sound way to "change skills mixes" while preserving this institutional knowledge? If so, what do you believe are the most critical funding priorities to create more training opportunities for Federal workers?

Answer

OPM actively encourages agencies to consider retraining of proven current employees as another option to update work skills needed for future organizational success. On April 9, 2002, in a speech on training issues, I noted that "training is back in style, and that tight budgets should not deter agency investment in employee development programs." I also noted that in order to make training successful, agency managers must rethink their common belief that daily mission priorities prevent sending key employees on training assignments. This change in philosophy towards the expansion of training options must begin with executive branch managers, who for the first time work for a President with an advanced degree in management.

Over the past two decades, Congress has provided agencies with several valuable retraining alternatives. In 1978, Congress approved legislation that allows an agency to

retrain any of its own displaced employees for placement in another agency if this action is in the interest of the Government. When approving Public Law 103-226 and the buyout alternative for most non-Defense agencies, Congress also expanded the flexibilities available to agencies with resources available to retrain current employees for roles in their present agencies. Again, in my April 9 speech I noted that training tops my list of priorities to maximize the effectiveness of Executive Branch agencies.

9c) What criteria does OPM currently employ to guide agencies' use of early retirement and early separation incentives? Since the Substitute Managers' Amendment and S. 1612 would make these incentives permanent, what additional limitations can you recommend on their use?

Answer

The criteria for both voluntary early retirement and voluntary separation incentive payments are set by law.

The voluntary early retirement program is presently authorized by section 7001 of Public Law, 174 (1998), as extended by section 651 of Public Law 106-58 (1999). Under the law, agencies faced with a restructuring situation must submit a request to OPM for approval before any of the agency's employees can retire under the voluntary early retirement option.

The statute requires OPM to publish comprehensive regulations administering all aspects of the voluntary early retirement program. OPM's implementing regulations ensure that the voluntary early retirement option is limited to agencies or components faced with actual involuntary separations or demotions of excess employees. OPM's regulations also allow an agency to target voluntary early retirement offers on the basis of organizational rather than personal considerations. Finally, OPM's regulations require agencies to ensure that each employee's voluntary early retirement is truly a voluntary, rather than a coerced, action.

Since Congress authorized the first Federal buyout program in October 1992 through Public Law (102-484), Congress has limited OPM's regulatory role in administering voluntary separation incentive payments. Beginning in 1993, Congress subsequently authorized over 30 additional buyout statutes, or extensions. All but two of these statutes (Public Law 103-226 in 1994 and Public Law 104-208 in 1996) were agency-specific. Some of the statutes provide that OPM may waive a buyout repayment requirement that applies if a former employee who separated with a buyout is reemployed by the Government within 5 years of separation. Except for that statutory link involving OPM in limited reemployment situations, each agency is responsible for administering its own buyout program consistent with controlling statute.

Proposed legislation such as the Substitute Managers' Amendment and S. 1612 would give agencies' managers additional flexibility to concentrate on program goals in a restructuring situation. For example, the proposed legislation would allow agencies' managers to offer the voluntary early retirement option when an agency identifies

positions as excess, but before individual employees are targeted for likely involuntary separations or demotions. The proposed legislation would also provide agencies' managers with assurance that voluntary separation incentives are available as an option. At present, agencies must expend considerable time to convince both the Office of Management and Budget (OMB), and Congress, that buyouts are a viable restructuring alternative.

QUESTION 10

One of the stated objectives of early separation and early retirement incentives is to assist in making agencies "flatter" and to change the skills of employees in an agency. This objective seems to indicate that there are too many Federal workers in Government and that the new skills needed cannot be developed or obtained in-house.

10a) Do you believe this is the case?

Answer

The Administration's goal of "flattening" Federal agencies is recognition that each agency should reexamine its internal organizational relationships to eliminate duplicate reporting requirements, and excess layers of supervision. In part, this problem results because the longstanding Federal classification system is based on the concept of strict organizational hierarchy that generally rewards supervision. Excess layers of supervision can easily result because of the classification system requirement that supervisory positions must be evaluated at least one grade higher than subordinate positions. As a long-term solution to this problem, OPM is considering future options such as a new Federal compensation and classification program that will improve organizational effectiveness by eliminating surplus layers of supervisors and managers.

OPM does not believe that a single answer applies to the questions of whether an individual agency has too many employees, and whether the agency should focus on creating new skills by retraining current employees or by recruiting from outside sources. To answer these questions, OPM has a key role in the Administration's "Strategic Management in Human Capital" project. The goal of human capital is to produce benchmarks that an agency's managers can use to measure any present skills imbalances within the agency, and then to plan for future organizational success.

Consistent with this goal of future organizational effectiveness, last year every Federal agency conducted a comprehensive workforce analysis that quantified workforce needs and objectives over the next five years. Each agency then produced a restructuring plan based on the results of its workforce analysis. As agencies begin to streamline or modify their plans for full operation, human capital will provide direction both for designing organizations for the most effective use of personnel as well as providing the best alternatives for staffing the positions with retrained current employees, new external hires, or a combination of the two.

10b)**Question**

Government has not always faced the current problems in attracting people to enter the Federal service and making a long-term career in Government. Why does the Administration propose to make recruitment and retention incentives permanent?

Answer

The Administration proposes to amend the recruitment and retention incentive tools, which are already permanently authorized, in ways that would give agencies additional practical options for using them more effectively, based on more than 10 years' experience with such tools in the Federal and private sectors. These amendments will provide agencies with immediate tools to hire and retain skilled employees in the realities of the national labor marketplace. These incentives recognize that, in some situations, agencies must offer additional compensation in order to staff key positions, partly because the longstanding Federal classification and compensation systems are largely based on internal compensation equity. However, in order to attract and retain the best employees, agencies must also be able to offer individual external equity that provides compensation similar to that available in a specific labor market. What might seem like an apparent paradox to simultaneously seek both incentives for voluntary separations (see 10a) and incentives to come into and stay in Federal service actually reflects the very real complexity of the labor markets, both internal and external, that the wide variety of Federal agencies and missions face today. Compared to times when the majority of Federal positions were largely undifferentiated clerical and technical jobs filled by civil servants expecting a 30-year career, today agencies must staff for highly specialized work with fast-changing knowledge demands and must recruit from a labor pool that views multi-employer careers as a natural pattern.

**GOVERNMENTAL AFFAIRS SUBCOMMITTEE
ON INTERNATIONAL SECURITY, PROLIFERATION,
AND FEDERAL SERVICES HEARING ON
FEDERAL WORKFORCE LEGISLATIVE
PROPOSALS FOR CHANGE
MARCH 18, 2002**

**QUESTIONS FOR KAY COLES JAMES
DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT (OPM)**

QUESTION FROM SENATOR VOINOVICH

QUESTION 1

In a recent interview, you described Federal employees as very different workers from the clerks that filled row upon row of desks in the 1940s. You stated that, "The new civil servant is a knowledgeable worker, a thinker, one who brings certain sets of experiences and who can manage." Please elaborate on this concept and your visions for making the Federal Government an exciting environment that can attract such talented individuals.

Also, many of the witnesses think that the Federal Government's pay and benefits systems have to be reformed. Can you please describe what OPM is doing to address the issue of compensation?

Answer

When the General Schedule job evaluation and pay system was created, the Federal Government was largely a "Government of clerks." Today, most Government work no longer revolves around the execution of established, stable processes or the application of physical effort. Instead, Federal white-collar work has become highly skilled and increasingly specialized.

In most organizations, particularly those in the private sector, compensation management has become considerably more than simply calculating and paying the bill for employee efforts. The concept of compensation and rewards has broadened. Organizations have come to view their compensation and reward systems as much more than schemes managed out of the comptroller's office and designed to contain salary and related benefits costs. Today, organizations manage their rewards systems out of their human resources offices. They design them to use pay, awards, benefits, learning and development, challenging and satisfying work, work-life balance, and a supportive work environment strategically to attract, manage, develop, and retain high-quality, diverse workforces that meet their specific human capital needs.

The purpose and tactics of compensation have also broadened. Organizations no longer view their annual compensation budgets simplistically as the bill for "another year's worth of labor inputs." Instead, they use flexible, targeted compensation tools to acquire and retain critical talent. Compensation's role in recruiting gets considerable attention from both employers and potential employees. Organizations no longer use

compensation principally to encourage and reward unquestionable loyalty from undifferentiated “human resources;” instead, they use compensation to communicate and reward desired values, behaviors, and outcomes. Federal agencies are similarly poised to use compensation as a strategic tool, rather than merely an administrative tool. This shift is already visible in a wide variety of demonstration projects and alternative personnel systems that align agency pay practices and bonus and award programs with agency strategic goals.

OPM prepared its White Paper, *A Fresh Start for Federal Pay: The Case for Modernization*, to make the case that the Federal white collar pay system needs thorough and ongoing reform if it is to fully support the Government’s important missions in the 21st century. We will proceed with wider distribution of the White Paper and follow-up discussions with members of the Federal community. Our purpose is to begin a conversation about the needs of the pay system that must be addressed.

While the White Paper lays out our arguments for changing the Federal pay structure, I want to emphasize that it does not contain any specific proposals for change. I believe that the process of improving our system can only take place if, first, the entire Federal community works together to develop an understanding of the problems and challenges that face us. Good solutions can flow only from a comprehensive understanding of the problems. I believe the White Paper is a good start toward such a comprehensive understanding.



Comptroller General
of the United States

May 10, 2002

The Honorable Daniel K. Akaka
Chairman, Subcommittee on
International Security, Proliferation,
and Federal Services
Committee on Governmental Affairs
United States Senate

The Honorable George V. Voinovich
Subcommittee on
International Security, Proliferation,
and Federal Services
Committee on Governmental Affairs
United States Senate

Subject: *Post-Hearing Questions Related to Federal Human Capital Issues*

Dear Mr. Chairman and Senator Voinovich:

On March 18, we testified before your Subcommittee at a hearing on "The Federal Workforce: Legislative Proposals for Change." In that testimony we (1) discussed the major components of our new Model of Strategic Human Capital Management (GAO-02-373SP), (2) identified key practices that agencies need to have in place to effectively use human capital authorities, and (3) highlighted provisions of amendments to S. 1603, The Federal Human Capital Act of 2001.

This letter responds to your request that we provide answers to follow-up questions relating to our March 18, 2002 testimony. Your questions, along with our responses, follow.

Questions from Chairman Akaka

1. At the hearing on March 18, 2002, witnesses reviewed proposals in the Substitute Manager's Amendment and S. 1612 to offer early retirement and early separation incentives from the federal government. As you know, over half the federal workforce will be eligible for retirement in the next several years. In your testimony, you recommended that Congress consider adding employee performance as a factor in deciding who should receive these incentives. What other factors would you recommend when offering early retirement and early separation incentives?

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Early retirement and early separation incentives, in addition to other human capital approaches, should be designed, implemented, and assessed by the standard of how well they help agencies achieve results and pursue their missions. In light of this, agencies should have the opportunity to consider using these two authorities for the purposes of realigning the workforce to meet mission needs, correcting a skills imbalance, and realigning the workforce to meet budget constraints. Performance is just one factor agencies should consider using when taking advantage of early retirement or early separation incentive programs. Performance should not be used to target certain individuals, but it can be a factor when deciding which employees will be allowed to receive the incentives. When offering employees an opportunity to take advantage of these incentives, we also suggest that agencies consider factors such as skills, knowledge, and competencies; the organizational unit or subunit in which an employee works; an employee's occupational series, grade, or band level, as appropriate; or the geographic location of the employee. These criteria should be weighed in light of the mission needs of the agency to ensure that the appropriate people are on board to serve the public and accomplish programmatic results. Whatever criteria are used for offering these options to employees, the approach used should be clearly defined, well-documented, transparent, and consistently applied. These guidelines have proved useful in our own implementation of a Voluntary Early Retirement program.

2. One of the questions from the hearing on March 18, 2002 explored why agencies would be more likely to use the expanded management flexibilities offered in the Substitute Managers Amendment and S. 1612 considering the fact that agencies currently use these flexibilities sparingly. You noted that managers need to be more aware of how to effectively use existing management flexibilities and better manage agency resources. OPM has testified that it trains federal managers on the use of these flexibilities. Why are agencies unaware of these flexibilities? What additional efforts are needed to draw attention to existing flexibilities?

We have noted that a critical first step in strategic human capital management is for agencies to make concerted efforts in identifying and maximizing personnel authorities (flexibilities) already available under existing personnel laws, rules, and regulations.¹ The U.S. Office of Personnel Management (OPM) has published and put on its Web site *Human Resources Flexibilities and Authorities in the Federal Government*, a handbook listing personnel flexibilities available to agencies. In addition, OPM and OMB included information on personnel authorities available to managers as a part of training for senior managers on the President's Management Initiatives. This information was presented in a half day of training on flexibilities as a part of transition training for new political appointees. Despite these initiatives many agencies have not made extensive use of flexibilities.

Part of the reason for this limited use of flexibilities is that some agencies may continue to not be fully aware of the flexibilities; however the key reason may be that agencies have not systematically assessed their strategic human capital needs and then developed programs and initiatives to address those needs. Using flexibilities is then part of the solution to address an agency's human capital challenges. For example, many supervisors and managers cite noncompetitive pay as a major reason why it is difficult to recruit and retain employees with critical skills. Yet very few agencies have made more than a modest use of recruiting

¹We are currently studying agencies' use of human capital flexibilities at the request of this subcommittee and others.

bonuses and retention allowances. Agencies need to conduct a systematic analysis to determine how best to recruit and retain the talent they need; this analysis should then be used to determine which flexibilities, if any, are to be used. When considering these opportunities, agencies must also consider the competing demands confronting them, the limited resources available, and how those demands and resources require careful balancing and prioritization.

3. Financial transparency is an issue that was raised in GAO's "High Risk Update." According to the report, "without good financial information . . . government cannot make timely and informed decisions about allocating limited resources." Do you believe federal managers have the tools they require to more effectively manage agency resources, including those resources used for contracting out? If not, how can managers be expected to use existing personnel flexibilities?

Many agencies do not have timely, accurate, and useful financial information, including cost data, and do not have sound controls with which to make informed decisions and ensure accountability on an ongoing basis. Cost data is essential for budgeting, controlling cost, measuring performance, determining cost reimbursements, setting fees and prices, evaluating programs, and choosing between alternative actions. Also, accurately knowing the cost for providing goods and services in-house for comparison with private sector performance will be important in making sound sourcing decisions and analyzing the budgetary implication of contracted services. Although agencies have started to make progress in their efforts to modernize their financial management systems, much work remains.

We have consistently reported that effective organizations use complete, valid, reliable, and current data to inform decisions regarding human capital management approaches and that they integrate investments in human capital approaches with needs identified through strategic planning. Routinely having timely, accurate, and useful financial management information will enable agencies to use this information when analyzing the budgetary implication of contracted services, when looking to fund an administrative human capital flexibility, and when attempting to understand the relationship between the cost and effectiveness of a particular human capital flexibility.² However, other tools are available to assist agencies in implementing available human capital flexibilities, and agencies need not wait for detailed cost data to implement the human capital flexibilities available under current law. When implementing these flexibilities, agencies need to make a business case assessing the potential costs and benefits of a particular flexibility and the degree to which it may assist in improving agency performance. Developing a fact-based business case will be more difficult and time-consuming in the absence of organizationwide systems that provide sound financial data.

² For additional information on federal contracting, see the Commercial Activities Panel, *Improving the Sourcing Decisions of Government: Final Report* (Washington, D.C.: April 30, 2002).

4. The Substitute Manager's Amendment and S. 1612 propose measures to expedite the hiring process by allowing agencies to directly hire job applicants for hard-to-fill positions. However, witnesses testified at the hearing on March 18, 2002, that this would not speed up hiring and may actually slow it down since OPM would already have a larger pool of selected applicants. Do you believe there are instances where direct hire authority may actually slow the hiring process?

We are studying the federal hiring process at the request of this committee. The concern raised at the hearing appeared to be based on the assumption that OPM retains authority over examining and rating job applicants and that OPM retains lists of certified applicants for various positions. According to a recent Merit Systems Protection Board (MSPB) report, OPM has delegated virtually all responsibilities associated with the hiring process to federal agencies.³ The decentralization of personnel management was begun to make these activities more timely and flexible. The same MSPB report indicates that human resources specialists believe that the delegation of responsibilities for the hiring process to the agencies has enabled them to fill positions in a more timely manner, do a better job of matching hiring needs and applicant skills, and fill jobs more cost effectively than they could when they had to request candidate referrals from OPM.

Questions from Senator Voinovich

1. In your testimony, you discuss the importance of fostering a results-oriented organizational culture in federal agencies and suggest that implementing pay-for-performance to replace the current pay system, which is based on "the passage of time and rate of inflation." While we need to review the government's compensation system, this is only one aspect of the human capital crisis. What can we do, right now, administratively or legislatively, to install a culture of excellence in federal agencies? What must federal managers do to motivate and empower their employees and make the government a more exciting place to work?

One way to embed a culture of excellence or results-orientation is to align individual employee performance expectations with agency goals so that individuals understand the connection between their daily activities and their organization's success. High-performing organizations have recognized that a key element of a fully successful performance management system is to create a "line of sight" that shows how individual responsibilities can contribute to organizational goals. As a first step, these organizations align their top leadership's performance expectations with organizational goals and then cascade performance expectations to lower organizational levels.

At the most senior level, one way to encourage accountability within an organization is through the use of executive performance agreements. Our work has shown that agencies have benefited from their use of results-oriented performance agreements for political and senior career executives.⁴ Although each agency developed and implemented performance agreements that reflected its specific organizational priorities, structures, and cultures, the performance agreements met the following characteristics. They

³U.S. Merit Systems Protection Board, *The U.S. Office of Personnel Management in Retrospect: Achievements and Challenges after Two Decades* (Washington, D.C.: December 2001).

⁴U.S. General Accounting Office, *Managing for Results: Emerging Benefits From Selected Agencies' Use of Performance Agreements* GAO-01-115 (Washington, D.C.: October 2000).

- strengthened alignment of results-oriented goals with daily operations
- fostered collaboration across organization boundaries
- enhanced opportunities to discuss and routinely use performance information to make program improvements
- provided a results-oriented basis for individual accountability, and
- maintained continuity of program goals during leadership transitions.

Governmentwide, agencies are to place increased emphasis on holding senior executives accountable for organizational goals. OPM amended regulations that change the way agencies evaluate the members of the Senior Executive Service (SES). While agencies will need to tailor their performance management systems to their unique organizational requirements and climates, they nonetheless are to hold executives accountable for results; appraise executive performance on those results balanced against other dimensions, including customer satisfaction and employee perspective; and use those results as the basis for performance awards and other personnel decisions. Agencies were to implement the new policies for the SES appraisal cycles that began in 2001.

Furthermore, leading organizations we studied create a set of mission-related program guidelines within which managers operate, and then give their managers extensive authority to pursue organizational goals.⁵ Allowing managers to bring their judgment to bear in meeting their responsibilities, rather than having them merely comply with rigid rules and standards, can lead to more effective operations.

Involving frontline employees in decisionmaking, either directly or through employee unions and organizations, as appropriate, is another key ingredient in developing an organizational culture that motivates and empowers employees. Employee involvement in the planning process helps to develop agency goals and objectives that incorporate insights about operations from a frontline perspective. Involving employees can also serve to increase employees' understanding and acceptance of organizational goals and objectives and improve motivation, morale, and retention.⁶

Our work has shown that leading organizations commonly seek their employees' input on a periodic basis and explicitly address and use that input to adjust their human capital approaches.⁷ The organizations collect feedback using employee satisfaction surveys, convene focus groups or employee advisory councils, and including employees on task forces. Moreover, organizations we studied reported that they involved unions and incorporated their input into proposals before making decisions. Engaging employee unions in major changes such as redesigning work processes, changing work rules, or developing new job descriptions can help achieve consensus on the planned changes, avoid misunderstandings, speed implementation, and more expeditiously resolve problems that occur.

⁵U.S. General Accounting Office, *Managing for Results: Experiences Abroad Suggest Insights for Federal Management Reforms* GGD-95-120 Washington, D.C.: May 2, 1995).

⁶U.S. General Accounting Office, *Human Capital: Practices that Empowered and Involved Employees*, GAO-01-1070 (Washington, D.C.: Sept. 14, 2001).

⁷U.S. General Accounting Office, *Human Capital: Key Principles from Nine Private Sector Organizations* GAO/GGD-00-28 (Washington, D.C.: January 2000).

2. The American workforce has been transformed over the past decade as a result of information technology and other advancements. What must the federal government do to be competitive as an employer of choice? For instance, how should the federal government adapt to the fact that few new college graduates seek a 30-year career with one employer, preferring the flexibility to move from job to job and sector to sector without major barriers to entry?

There are numerous steps that can be taken in the short, medium, and long term to make the federal government an employer of choice for people within all levels and all sectors of the labor market. Many, but not all, of these steps can be done within current laws and regulations.

In the short term, agencies should use technology and available administrative flexibilities to minimize the time required to hire. In addition, a recently announced initiative of the OPM to improve the federal hiring process is a positive step. This initiative encourages agencies to develop clear, understandable job announcements; to provide timely and informed responses to questions about the recruiting process; and to regularly provide updates on the status of applications as significant decisions are reached. Those considering employment offers with the federal government may take offers more seriously if provided with information on the total compensation package. Accompanied by the federal government's contribution for health care benefits, life insurance, and retirement, a "low" salary offer seems more robust. Recruiters should also point out the many family-friendly and work/life benefits the federal government has to offer, including flexible work schedules, on-site child care or child care assistance, transportation benefits, and telecommuting.

In addition to focusing energy on the application process, agencies should develop ongoing relationships with colleges and universities that entail recruiting, general outreach, and educational opportunities. Agencies can further enrich their potential applicant pool by creating substantive internship opportunities that allow hiring officials the chance to observe student performance and expose students to the benefits of working for the federal government, and the impact they can make as federal employees.

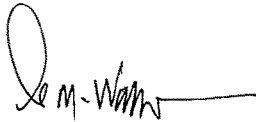
Once these initiatives are in place, agencies and other interested parties can turn their attention to activities that will take slightly longer to accomplish in making the federal government an employer of choice. For example, as agencies develop policies for providing student loan repayment assistance, they will need to budget their resources strategically and make a business case to OMB and Congress for additional funding based on a fact-based analysis of their needs and the constraints under which they currently operate.

In the long term, all concerned parties will need to work together on a number of efforts to make the federal government an employer of choice. Momentum is already building to address the challenges posed by a classification and pay system that many view as antiquated.⁸ As debate on comprehensive civil service reform moves forward, consideration must be given to having a greater share of an employee's salary dependent on knowledge, skills, and performance, rather than the passage of time and the rate of inflation, as is often that case today. This shift would communicate to potential applicants that the federal

⁸For example, see U.S. Office of Personnel Management, *A Fresh Start for Federal Pay: The Case for Modernization* (Washington, D.C.: April 2002).

government values, recognizes, and rewards high performance and the accomplishment of results. However, numerous studies report that money is not the sole motivating factor that leads someone to choose to work for the federal government specifically or the public sector generally. We must address the challenge of overcoming the legacy of more than two decades of bureaucrat bashing by emphasizing the essential and valuable role of public servants and the positive role the federal government plays in our day-to-day lives.

If you have any questions concerning this letter, please contact J. Christopher Mihm, Director, Strategic Issues, at mihmj@gao.gov.

A handwritten signature in black ink, appearing to read "D. M. Walker", followed by a horizontal line.

David M. Walker
Comptroller General
of the United States

GOVERNMENTAL AFFAIRS SUBCOMMITTEE
ON INTERNATIONAL SECURITY, PROLIFERATION
AND FEDERAL SERVICES HEARING ON
THE FEDERAL WORKFORCE:
LEGISLATIVE PROPOSALS FOR CHANGE
MARCH 18 & 19, 2002

RESPONSES FROM MS. COLLEEN M. KELLEY
TO CHAIRMAN DANIEL AKAKA

1) Witnesses from the third panel, who testified on March 19, 2002, supported the creation of a Chief Human Capital Officer, and said that if this policy were carried out effectively, it would contribute to better management. Do you believe a Human Capital Officer would be beneficial for federal workers?

The establishment of a position at the agency level with direct responsibility for managing the agency's human resources could be a positive step in addressing the federal government's human capital crisis. However, these Chief Human Capital Officers must have the support of the White House and Office of Management and Budget to be successful in their positions. We welcome efforts to raise human capital management to a higher level within federal agencies, but unless their recommendations are taken seriously and resources are made available to fund those recommendations, the addition of agency Human Capital Officers would likely have little impact on the human capital crisis.

2) One of the proposals in S.1612 is to expand the use of demonstration projects and create permanent alternative personnel systems. In what way have the use of demonstration projects and alternative personnel systems affected federal workers? How have demonstration projects and alternative personnel systems changed the perception of the federal government as a single employer?

NTEU supports the use of demonstration projects to test new personnel concepts. They permit agencies to experiment with changes that are consistent with the agency's goals or mission when one-size-fits-all approaches may not meet the agency's needs. However, collective bargaining must be part of the development and implementation of any demonstration project to ensure that employee rights are protected.

NTEU does not support language in S.1612 making demonstration projects permanent without Congressional approval. While some demonstration projects have had positive results, others have fallen short of their goals. Demonstration projects must continue to be subject to Congressional oversight. Congress was rightly given the authority to determine whether demonstration projects should continue, be eliminated, or expanded and Congress should continue to have oversight responsibility for these decisions.

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RESPONSES FROM MS. COLLEEN M. KELLEY
TO SENATOR GEORGE VOINOVICH

1) Your testimony states that "providing federal employees with compensation that mirrors that received by their private sector counterparts would do more to address recruitment and retention in the federal government than all of the federal government's other incentive programs combined." Competitive compensation is an important tool we can use to address the human capital crisis; however, many recent studies have shown that compensation often ranks behind factors like the opportunity to make a difference and career development. A pay increase alone would probably not solve the federal government's recruitment and retention problems. What changes, other than pay increases, would accomplish this in your opinion?

NTEU believes that for most prospective employees, the most critical element in deciding whether or not to accept a job is salary. While it is certainly not the only job element prospective employees consider, it is often the most important. When considering employment with the federal government, prospective employees also consider the benefit package including health insurance coverage, training opportunities, career advancement opportunities and a variety of other factors. Most of these critical elements are resource-driven and until Members of Congress and the Administration are willing to spend the political capital necessary to commit the resources to fund these elements, we will not be on the road to solving the human capital crisis.

In addition to compensation and benefits, the ability to make a difference and perform challenging and important work are important to both current federal employees and individuals considering federal service. Yet, the signals Washington often sends to prospective employees give just the opposite impression. For example, the Administration's blind targets for contracting out federal jobs send an unmistakable message to federal employees that they are not valued. Moreover, these arbitrary quotas have been put forward with no thought to their potential impact on the federal government's already severe recruitment and retention crisis. While there are situations where work can be done at less cost for the federal government by private contractors, arbitrary quotas for seeking outside contractors without regard to cost make no sense and NTEU urges the Senate to reject their use.

Similarly, while saying it wants to attract the best and the brightest, it imposes on one set of its employees an arbitrary list of offenses for which they **must** be fired. Section 1203 of the IRS Restructuring Act is a major disincentive for both retaining current and recruiting prospective employees at the IRS. As you know, Section 1203 lists ten infractions for which IRS employees face mandatory termination. For example, IRS employees must be fired for late filing of their tax returns even when they are due a refund. The broad scope and vague nature of these "sins" continues to create anxiety and confusion in the workplace. Last week, the House adopted an amendment to pending legislation, H.R.586, that would permit penalties other than mandatory termination to be considered by the IRS for violations of Section 1203. This change is long overdue and I hope that the Senate will promptly join the House in supporting changes in Section 1203.

Senator Voinovich, the lack of competitive compensation, substandard benefits, agency downsizing, the introduction of mandatory quotas for contracting out federal jobs and application of the Section 1203 rules have in many cases convinced the best and brightest that much of the work of the federal government is not appropriately valued. That needs to change if we are to be successful in solving the human capital crisis. NTEU particularly appreciates your acknowledgement of the importance of competitive compensation and providing agencies with appropriate resources in addressing the human capital crisis. We look forward to working with you to address all of these issues.

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RESPONSES FROM MR. BOBBY L. HARNAGE
TO CHAIRMAN DANIEL K. AKAKA

1. One of the proposals in S. 1612 is to expand the use of demonstration projects and create permanent alternative personnel systems.

In what way have the use of demonstration projects and alternative personnel systems affected federal workers?

How have demonstration projects and alternative personnel systems changed the perception of the federal government as a single employer?

While AFGE supports the use of limited demonstration projects to test new approaches to pay, career development, budgeting, and process reengineering, we do not believe that limitations on demonstration project authority be relaxed or abandoned altogether. Further, AFGE strongly opposes granting to any body other than the U.S. Congress the authority to make permanent any changes to Title 5, the law that governs federal employment.

Federal employees with union representation have the right to vote on the imposition of a proposed demonstration project. If they believe that the demonstration project would be disadvantageous to them, they currently have the opportunity to voice their preference to maintain the standards set forth in Title 5. No demonstration project that would undermine pay or working conditions can simply be imposed on an organized bargaining unit in the federal government; rather, union-represented federal employees must vote for the demonstration project and even then it is only temporary.

This is a right that members of AFGE cherish, and they will oppose all efforts to undermine it. The legislative proposals to remove the limit on the number of demonstration projects operating at a given time, and to remove the limit on the number of workers covered by demonstration projects at a given time, would indeed undermine the government's ability to operate as a single employer. The current limits were carefully designed in order to strike a balance between agencies' desires to experiment with new systems, and the government's need to retain control over personnel policies. Fragmentation of the government's civil service system into myriad unique pay systems would undermine the merit principles that form the basis of the federal service. Further, Congress would lose its ability set the standards that govern federal employment, as these authorities were handed to agency management and political appointees.

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QUESTIONS FOR MR. BOBBY L. HARNAGE
FROM SENATOR GEORGE V. VOINOVICH

1. *Ms. Kelley's testimony states that "providing federal employees with compensation that mirrors that received by their private sector counterparts would do more to address recruitment and retention in the federal government than all of the federal government's other incentive programs combined." Competitive compensation is an important tool we can use to address the human capital crisis; however, many recent studies have shown that compensation often ranks behind factors like the opportunity to make a difference and career development. A pay increase alone would probably not solve the federal government's recruitment and retention problems. What changes, other than pay increases, would accomplish this in your opinion?*

Although you have asked me to list the policy changes "other than pay increases" that would be effective in solving the federal government's recruitment and retention problems, I believe that increasing pay is a necessary precondition for making any progress in this area. Beyond addressing pay, I would say that ending the Bush Administration's destructive, expensive, and wholly arbitrary privatization/contracting out quotas would be a good place to start. Agencies are directly converting federal government work to contractors, without conducting cost comparisons between the in-house and contractor bids, solely to comply with these quotas. Experienced and dedicated federal employees are being denied the opportunity even to compete in defense of their jobs. Agency management, who despair over the firing of federal employees who have shown their skill, devotion, and loyalty to the government, recognize that they have no choice but to contract out in order to comply with the quotas that OMB has handed down. They are being forced to contract out inherently governmental work, work that is central to their agencies' missions, work that is being done efficiently, effectively, and at a lower cost to taxpayers to the contractors. They recognize that the contracting out quotas are not about saving money or improving effectiveness, since the contractors are often more expensive, less effective, less flexible, and less accountable.

Improving federal pay so that it is comparable to that paid by large private and public sector employers is an imperative if the government is going to be successful in hiring the next generation of federal employees to staff our governments departments and programs. But so is keeping control of the government's work in the hands of the civil service. Agencies have no

systems in place to track the cost or effectiveness of the more than \$110 Billion spent annually on service contracting. As that figure grows along with the quota-driven contracting out bonanza that is occurring today, it is crucial that Congress require agencies to improve accountability to taxpayers by keeping track of what the contractors are doing with those Billions of dollars.

Current and potential federal employees are being sent a very clear message by President Bush's outsourcing quotas. They know that federal employees, despite their loyalty and the continuing excellence of their performance, are neither valued nor appreciated. They know that the administration wants to eliminate their jobs and hand them over to their friends in the contractor community. This is hardly a recipe for success in recruitment or retention.

I urge you to do all in your power to persuade the administration to rescind the outsourcing quotas, and to require agencies to hold public-private competitions prior to signing contracts or contract renewals for current government work, new government work, or government that has already been contracted out. Federal employees welcome competition that is conducted on the basis of cost, the standard that is best for taxpayers. The wholesale handing over of government contractors, without competition or accountability, must come to an end.

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RESPONSES FROM MR. JERRY SHAW
TO QUESTIONS FROM CHAIRMAN DANIEL K. AKAKA

1: In your written testimony, you expressed support for Section 302 of the Substitute Manager's Amendment, which repeals re-certification requirements for Senior Executives. Your testimony mentions that the re-certification process was ineffective in dealing with the concern of non-performers among Senior Executives.

What do you believe is a more effective way to address concerns about non-performers among Senior Executives?

[Response from SEA] The most effective way for agencies to address concerns about non-performing Senior Executives is for them to pay attention to and follow the performance management appraisal system in place (5 CFR Part 430).

The Senior Executives Association fully supports a focus on executive performance management so that agencies can achieve their goals by working hand-in-hand with executives. SEA believes that the current performance management appraisal system gives agencies the flexibility and discretion they need to ensure that they can use performance information to adjust pay, reward, and develop senior executives as appropriate.

In the small percentage of cases when an agency must deal with a non-performer, the agency need only to be willing to take the performance appraisal process seriously. In fairness, that requires that the executive be given 1) performance standards which reflect the agency's goals and the superior's expectations, 2) an opportunity to meet those standards, and 3) feedback during a progress review. Indeed, the current performance management system provides for precisely this process, however, a 1999 survey of Senior Executives conducted by the Office of Personnel Management in cooperation with the Senior Executives Association found that 8% of all career executives did not have a performance plan and 14% had a performance plan developed 2 or more years ago.

The current system gives agencies virtually unfettered and unreviewable discretion to remove non-performing Senior Executives from the SES. That is because performance management regulations allow, and in some cases require, removal of an executive who receives an unsatisfactory performance appraisal. For example, an executive who receives an unsatisfactory annual summary rating must be reassigned or transferred within the Senior Executive Service; that executive may also be removed. An agency MUST remove from the SES an executive who receives two unsatisfactory annual summary ratings in any 5-year period. Underlying the agency's authority to deal with non-performers through this process is the fact that performance appraisals and ratings are not appealable.

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RESPONSES FROM MR. JERRY SHAW
TO QUESTIONS FROM SENATOR GEORGE V. VOINOVICH

1. As Mayor of Cleveland, Senator Voinovich was successful in de-linking the pay schedule of civil servants from that of City Council, a relationship that resulted in pay compression for many of my top municipal officials. While Section 302 in the draft managers' amendment would not detach SES pay from Congressional pay, it would lift the current limitation on total compensation from Executive Level I to that of the vice-president. Would it be better to completely sever the connection of civil service pay to that of Members of Congress and other Executive Schedule appointees?

[Response from SEA] The issue of severing the connection of Senior Executive pay from the pay schedule for Members of Congress and other Executive Schedule appointees has arisen at various times over the past 20 years. As you state was the case with the City of Cleveland, such linkage in pay at the Federal level leads to pay compression. Pay compression is a problem which would best be addressed by first taking steps to immediately alleviate compression at all levels (such as by the passage of S. 1129 which lifts the statutory cap on Senior Executive pay). It has been our experience that the issue of de-linkage gets politicized, which leads to debate with some Members supporting and others opposing. That then leads to inaction on the worsening pay compression problem.

FMA

Federal Managers Association

QUESTIONS FOR MR. JOHN PRIOLO
FROM CHAIRMAN DANIEL K. AKAKA

GOVERNMENTAL AFFAIRS SUBCOMMITTEE
ON INTERNATIONAL SECURITY, PROLIFERATION
AND FEDERAL SERVICES HEARING ON
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1. *Witnesses from the third panel, who testified on March 19, 2002, supported the creation of a Chief Human Capital Officer, and said that if this policy were carried out effectively, it would contribute to better management.*

Do you believe a Human Capital Officer would be beneficial for federal workers?

FMA supports the creation of a Chief Human Capital Officer insofar as this management position possesses the necessary authority to address workforce concerns within the Officer's respective agency or department. FMA agrees with allowing each individual agency to determine how best to designate this title, e.g., redesignating this individual and/or having the agency head "dual-hat" the top management official to handle human capital issues.

However, if the Chief Human Capital Officer becomes a position that must support political agendas rather than respond to the human capital needs of the agency, then FMA would not support producing this additional layer of bureaucracy.

2. *One of the proposals in S. 1612 is to expand the use of demonstration projects and create permanent alternative personnel systems.*

In what way have the use of demonstration projects and alternative personnel systems affected federal workers?

How have demonstration projects and alternative personnel systems changed the perception of the federal government as a single employer?

Unfortunately, in FMA's opinion, not enough information is provided to those activities not affected by demonstration projects and systems. As a result, very little is known about the effectiveness of these projects, and more importantly, little is done to utilize findings for government-wide application.



FMA

Federal Managers Association

Those demonstration projects that produced marked improvement should be used in more locations; those that did not should be discontinued. Perceptions will not be changed unless the outcomes of these projects are publicized.

In FMA's view, these projects and systems have not changed the perception of the Federal government as a single employer.



QUESTIONS FOR MR. JOHN PRIOLO
FROM SENATOR GEORGE V. VOINOVICH

1. Conventional wisdom assumes that it is very difficult to fire a federal employee for poor performance. Yet many have pointed out that it is in fact managers' unwillingness to confront such employees because it makes for an uncomfortable situation. S. 1603 includes a provision that would require additional training for managers to improve how they handle this difficult part of their responsibilities. What is the position of the Federal Managers Association on this matter?

In FMA's view, the process is already in place to take appropriate actions against poor performers. The main obstacle to taking action are the layers of management one must work through in order to complete the process.

From the employee's viewpoint this is a good thing because there is a system of appeals. For the supervisor the process can be frustrating and time-consuming when added to a workday already filled with overburdening duties. It is a common experience for supervisors to eventually give up when the same poor performers win their appeal to the higher levels of management.

Second-level managers are typically subject to hearing the appeals process and acting on whether a punishment or removal should be upheld or reduced. In a great majority of the cases where there is outright poor performance the facilities do not have a consistent track record on how to deal with poor performers. One recent example at a facility involved proposing the removal of an employee because of his inability to successfully pass the training needed to execute his job. In the investigation of the appeal instances were found where the shop had not proposed removal for other employees with the same weakness. The inconsistency has managers now being tasked to fulfill additional obligations, such as providing remedial training for the employee. This, again, further squeezes the already-tight schedules of managers and supervisors.

Additional training of managers on how to handle serious disciplinary issues would only be of benefit if the Human Resources personnel were consistently behind attempts to resolve these situations as quickly as possible. Often times there exists an unwillingness on the part of upper-level managers to provide the necessary support to expedite the process.

We at FMA support increased training of managers and supervisors; however, this needs to occur at all levels of management and not just be focused on the first and second lines of supervision. Furthermore, clear-cut actions within a set, uniform process should be established to assist in removing poor performers while serving as a guideline to achieve consistency within an organization.



RESPONSES BY CAROLYN BAN TO QUESTIONS FROM CHAIRMAN DANIEL
K. AKAKA AND SENATOR GEORGE V. VOINOVICH
May 7, 2002

I appreciate your thoughtful follow-up questions to my testimony in the hearings on March 19 on S. 1603 and S. 1639.

Question from Chairman Akaka:

1. During the hearing on March 19, 2002, you expressed concerns that the Substitute Manager's Amendment proposal for noncompetitive hiring is too broad and is not explicit on the limitations that should be placed on this practice. According to your testimony, it is important to have limitations on noncompetitive hiring, since managers often seek to fill positions immediately.

What limitations would you recommend for the use of noncompetitive hiring?

Response:

On the one hand, I recognize the challenge managers and HR specialists face in competing for top candidates with the private sector, which can often hire on the spot. Managers have long complained that waits of three months or longer make it very difficult for them to hire the best candidates.

On the other hand, the merit system requires open competition, and it is hard to meet that statutory requirement (which is a basic value in the civil service system) if a high percentage of hiring is done noncompetitively. How, then, can we balance these different needs and values?

I support maintaining the current standard for noncompetitive hiring, which is when there is a shortage of applicants for a specific position, based on a previous attempt to hire through an open recruitment process that was not successful. In such a case, the need to move quickly may outweigh the value of open competition.

On the other hand, we also need to address what we mean by noncompetitive hiring. Real noncompetitive hiring, including sending recruiters to job fairs or college campuses, may require suspending the rule of three and veterans preference for these specific situations. Alternatively, one can give recruiters direct hire authority to review only the applications received on a specific recruiting trip, to rate and rank only those applicants, and to apply veterans preference to this limited pool in a time-limited period. In effect, then, the recruiters would be acting as a delegated examining unit on-site and could hire almost immediately. In short, we need to limit the occasions on which noncompetitive hiring can be used but then design it to be quick and effective when it is appropriate to use it.

The problems with the Federal civil service system are often not statutory, and this is a case in point. The pressure to use noncompetitive hiring methods stems from managers' frustrations with the standard hiring process, which often takes too long. But most of the delay is not caused by the need to meet statutory requirements. For example, agencies normally only need to announce a vacancy for five days and can already choose to announce a vacancy for as little as three days if that short a period is likely to yield a large candidate pool. The delays are, most often, caused by the need to follow standard agency procedures, many of which could be streamlined. Some agencies have already applied technology to shorten dramatically the time required to hire. Agencies could also choose to set up systems to prioritize requests to hire based on the need for speed in critical positions, rather than simply processing hiring requests in the order received.

I should also point out that the most common method of noncompetitive hiring at the present time is the court-approved Outstanding Scholar Program. A recent report by the Merit Systems Protection Board has criticized this program both because it violates the requirement for competition and because grade point average is not a particularly valid selection method. As I explained in my written statement, I would recommend placing some limits on the Outstanding Scholar Program, including requiring that the degree have some logical relationship to the job for which the person is being hired and that there be some recency of the degree, for example, limiting qualification using to five or seven years after receiving the degree.

Questions from Senator Voinovich:

1. S. 1603 and S. 1639 offer a broad array of new flexibilities or expansions of existing authorities, but it is by no means an exhaustive list of actions that could be taken to address the human capital crisis. What other management flexibilities would you recommend be included in the bill? Are there sections you would recommend removing? What section do you think represents the single best flexibility in our legislation? What would you do to further strengthen it?

Response:

I just received from your staff earlier this week a sectional analysis of revised legislation unifying elements of S. 1603 and S. 1639. This bill includes very significant new provisions. Title V (Federal Workforce Management Innovations) would make a great contribution to increased flexibility in several ways. First, it expands dramatically the opportunities for agencies to implement demonstration projects, both by applying what has already been tested in earlier demonstrations and by trying out new approaches. It removes the limits on the size of demonstrations and the number of demonstration projects that can be approved. As this bill summary states, "...the proposal would created a mechanism for making a demonstration project permanent and for extending the innovation to other federal organizations." That would be a major breakthrough, one that would allow the federal government, finally, to be able to learn from demonstrations and then apply what has been learned elsewhere.

The revised bill would also authorize the creation of permanent alternative personnel systems (APS). In fact, some agencies have already received approval directly from Congress to create such alternative systems. I see Title V and Title II (especially the provision for category rating) as the most significant new flexibilities in this legislation.

The cumbersome, inefficient, and out-dated position classification system is in great need of reform. The current system is often an impediment to good management, and managers have to spend an inordinate amount of time “gaming” the system. Title V would permit agencies to adopt new, more flexible systems, such as broad-banding, which has been tested in several demonstration projects, and which has been used effectively by the General Accounting Office.

I have already addressed in my written testimony my concerns about a few provisions of the bill and, in my response above to Senator Akaka’s question, made a suggestion for revision of the provision for noncompetitive hiring, which is still included in the revised bill.

2. Some have asserted that compensation and job security are the most important criteria applicants seek when searching for a job. However, many studies have shown that the generation of Americans entering the workforce are more interested in such things as making a difference, pursuing interesting work and having mobility from job to job and sector to sector. Based on your experience, which of these views best describes what students are looking for in an employer when they come out of college or graduate school?

Response:

The University of Pittsburgh recently conducted a major study of the career and location decisions of recent graduates from the three largest universities in Pittsburgh (the University of Pittsburgh, Carnegie-Mellon University, and Duquesne University). This study confirmed what other research has shown. Recent graduates are looking primarily for challenging work, jobs with potential for further learning and growth, and jobs in fields and labor markets that will provide opportunities for upward mobility. Specifically, benefits and starting salary were ranked third and fourth in a list of “reasons people often give for choosing a particular job,” so they are far from unimportant. But the top two values were an interesting/challenging job and opportunity for advancement.

This study included graduates from all programs, both undergraduate and graduate. Individual interviews and focus groups with students at the Graduate School of Public and International Affairs, at the University of Pittsburgh, show considerable self-selection. The most frequently mentioned motivation for pursuing a degree here is the desire to make a difference. While many of our students are strongly motivated by a sense of public service, that does not always equate to a desire to work in government. In fact, many see work in nonprofit organizations as more closely fitting their definition of public service. Others feel that they can make a difference through work in the private sector. And studies tracking our graduates confirm Paul Light’s findings that,

increasingly, graduates of policy schools have careers characterized by movement across sectors.

The challenge, then, is not just to focus on increasing pay and benefits for federal workers, but in making the federal government an attractive workplace for public-spirited people – a workplace where they feel that they will be doing more than pushing papers or managing contracts, and where they can see that they have, indeed, made a difference.

3. Dr. Light was quoted in the *Washington Post* on Sunday, March 17, 2002, as saying, “federal employees know where the problems are in their agencies.” Do you think that the proposals in the legislation before us begin to address the problems that federal employees would identify in their own agencies?

Response:

We need to beware of sweeping generalizations about “the federal government.” In fact, agencies differ greatly, not just in their mission and organization, but in their culture and in the quality of leadership. This legislation would make a significant contribution to address those problems that stem from administrative rigidity or from a lack of management training. Employees in other agencies are likely to identify a range of problems, some of which are outside of the purview of this legislation, such as budget and staffing limitations that hamper mission accomplishment or the need to rethink mission or structure in the face of new challenges, particularly after September 11. Giving agencies increased administrative flexibility may help them to move more quickly to address these challenges, as well.

4. All of you have worked for the federal government at some point in your careers. David Walker testified that 80 percent of the changes that need to be made to the current personnel system could be made under existing legal authorities. This implies that a big part of the solution to the human capital crisis is administrative in nature. In other words, we need to instill a culture of performance and accountability in federal agencies. Your collective background makes this panel a particularly good group of individuals to ask what we can do to create a culture that encourages managers to be more proactive and performance oriented. Please comment on this concept.

Response:

It is clear that agencies aren’t always willing to use the flexibilities available to them under the current system. I remember working at the Office of Personnel Management in the first few years after the Civil Service Reform Act permitted demonstration projects for the first time. Often, agency HR staff would come to request permission to run a demonstration project, only to be told that they already could do what they were proposing, without needing OPM approval for a demonstration project. Unfortunately, that is still true, in all too many cases. On the other hand, increasingly, senior HR officers are sharing information about new approaches that they have tried. HR staff

have, in fact, become much more customer-focused, and many are making greater use of sophisticated technology to improve efficiency and effectiveness.

More broadly, there are several factors that limit agency willingness to try new approaches. First is simply bureaucratic inertia. There are still too many administrators whose first response is “but we’ve always done it that way” and who don’t think proactively. But there are also practical reasons for administrators to be somewhat risk-averse. Most managers and administrators understand that they work in an environment where the punishment for a mistake or failure can be very great, and therefore, they are afraid to try new approaches. Paradoxically, then, the problem is not necessarily the lack of accountability systems or of a performance orientation. It is, rather, the difficulty of designing accountability systems that reward innovation without penalizing overly the occasional failure that may result from taking risks.

GOVERNMENTAL AFFAIRS SUBCOMMITTEE
ON INTERNATIONAL SECURITY, PROLIFERATION
AND FEDERAL SERVICES HEARING ON
THE FEDERAL WORKFORCE:
LEGISLATIVE PROPOSALS FOR CHANGE
MARCH 18 & 19, 2002

RESPONSES FROM DR. PAUL C. LIGHT
TO A QUESTION FROM CHAIRMAN DANIEL K. AKAKA

1. One of the many issues discussed during the first session of this hearing on March 18, 2002, was the effect of outsourcing on recruiting. In her written testimony, Dr. Ban raised the question of whether there is an inherent conflict between our policies of contracting out some of the most interesting parts of government work and recruiting efforts to make public service more attractive.

How do you believe the effect of outsourcing on recruitment and retention should be addressed?

1. I believe that there are perfectly legitimate reasons for outsourcing, not the least of which is access to hard-to-recruit skills. However, when done through arbitrary targets, outsourcing, or competitive sourcing as it is now called, can create a climate of fear within government that undermines morale and weakens the call to service among potential recruits. The call to service is difficult to sustain when new recruits wonder whether they will have a job for long, how that job might be subjected to competitive sourcing under ambiguous terms, and just who might be making the final decision about whether their work is eligible for direct conversion. I am particularly concerned about the administration's recent proposed rule for easing the burdens of direct conversion and strongly recommend that such direct conversion be the exception, not the standard practice, in competitive sourcing.

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MARCH 18 & 19, 2002

RESPONSES FROM DR. STEVEN J. KELMAN
TO QUESTIONS FROM CHAIRMAN DANIEL K. AKAKA

1. *One of the many issues discussed during the first session of this hearing on March 18, 2002, was the effect of outsourcing on recruiting. In her written testimony, Dr. Ban raised the question of whether there is an inherent conflict between our policies of contracting out some of the most interesting parts of government work and recruiting efforts to make public service more attractive.*

How do you believe the effect of outsourcing on recruitment and retention should be addressed?

1. As a general matter, agencies should keep core competencies in-house and consider contracting out non-core activities to firms for whom the government's non-core activity is a core competency. So, for example, commanders at military bases should focus on the base's core defense responsibilities and, generally, contract out the operation and maintenance of the base.

Using this basic approach, most of an agency's most interesting jobs – involving policymaking, decision-making, and central operating activities – would stay inside the government. There would be no shortage of interesting jobs inside the government. But more commercial-type jobs, widely available from specialist commercial firms in the marketplace, would probably end up being contracted out.

2. *Your written testimony mentions the importance of allowing employee buy-outs, without reducing FTE's, as a way for agencies to obtain the skills they need from new federal workers without resorting to contracting out.*

Would this proposal lead to more contracting out if agencies choose to leave FTE's unfilled?

2. The proposal regarding buyouts for restructuring gives agencies more flexibility. Now, a buyout generally means a lost FTE. Only DoD currently has buyout authority, tied to lost FTE's. This proposal would give agencies an option. A Defense organization with buyout authority that intended to buy an employee out and leave the position unfilled in order to contract out could use existing buyout authority, and there is no reason to expect that the organization would use this new buyout authority to contract out. An agency that had this new authority as its only buyout authority could in principle use this authority to cut a job, keep the FTE (but not fill it), and contract out the activity. However, an agency could also use the authority to cut a job, keep the FTE, and use the FTE to hire an in-house person with skills it needs, thus avoiding the need to contract out for skills to which it would otherwise not have access. I believe that requirements for a restructuring plan to use the new buyout authority would encourage agencies in the direction of discussing how they will use the authority to restructure their in-house workforce. If Congress were concerned about this issue, it could require that restructuring plans pursuant to this authority be limited to restructuring the skill mix among in-house staff.

Opening Statement of

Richard N. Brown
Directing Business Representative
National Federation of Federal Employees
Federal District 1

and

Frank Carelli, Jr.
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International Association of Machinists and
Aerospace Workers, AFL-CIO

Chairman Akaka and Members of the Subcommittee, the National Federation of Federal Employees (NFFE), Federal District 1 and the International Association of Machinists and Aerospace Workers (IAMAW), AFL-CIO represent more than 125,000 federal employees throughout fifty-two (52) agencies of the federal government.

NFFE and the IAMAW welcome the opportunity to comment for the record and address the questions posed by this Subcommittee. We also appreciate the efforts of the Chairman and Senators Voinovich, Thompson, and others on this committee, for addressing the "Crisis in Human Capital" in the federal government. Chairman Akaka's questions are insightful and provide what we would consider to be the "bottom line for success of the proposed legislation."

Question 1: How would these proposals help recruit and retain the people agencies need to carry out their missions?

Although proposals exist in the legislation to improve recruitment and retention 15% of federal jobs are available for competitive sourcing by Fiscal year 2003 and eventually 50%; federal pay is approximately 30% behind the private sector and FEHBP premiums, already higher than most plans in the private sector, increased another 13% in 2002. Under these circumstances why would someone invest time in a federal career?

Section 208 of the proposed legislation would help keep the best and brightest that we already have in the government. It would help correct specific circumstances where young engineers come to the federal government to gain work experience then move on to the private sector for higher pay. Also the dilemma facing the VA with the RN crisis could be directed where the Nurse Pay Act of 1993 doesn't always give parity with the private sector.

Question 2: How do these bills contribute to better management in government and its effect on attrition?

Clearly, Section 203 addresses the ability of an agency to reduce high-grade, managerial/supervisory positions without eliminating full time equivalent positions. This would allow for greater flexibility to provide increased/improved service to the taxpayer. In effect, an incentive of \$25,000 to retire or resign has already reduced the rank and file of non-supervisory employees. However, a targeted significant reduction in the managerial or supervisory levels needs to happen –NOW.

Section 211, does address unacceptable performance of a federal employee however, reducing the termination from 30 calendar days to 15 calendar days does not address the unjustified terminations; allow the time necessary for management to process a termination; nor ascertain the status of on-going projects of the employee. In effect, it doesn't deal with the problems resulting from a termination.

Question 3: How do these bills contribute to an employee friendly environment?

How do the proposals make the federal government more attractive to current and future Government employees?

Sections 401 and 403 of the proposed legislation, provide a positive step concerning training and education. Specifically, training linked to performance plans of employees is a good investment by the government for the taxpayers. It will help federal employees in the performance of their jobs. Also amending section 1901 of Title 50, U.S.C. helps attract students from academic disciplines who can perform work in agencies that help provide for the national security of the United States.

Question 4: How can recruitment and retention concerns be balanced with the Administration's goals for competitive sourcing?

I don't believe these concerns can be balanced in current climate of "Competitive Sourcing". Currently, the administration has concocted percentages for the amount of competitive sourcing that should take place without establishing any criteria for how or why the percentages were determined. Why would anyone commit to a job with the federal government when the potential of being terminated in several months or several years is so prevalent?

Without a plan that provides some sort of job security, people will continue to take their chances in the private sector where overall, wages and benefits are

better. A strategic plan with a defined mission needs to be developed; fortunately, this committee has begun the process.

Question 5: How can the issue of compensation gaps between the public and private sector be addressed?

The Federal Employees Pay Comparability Act (FEPCA) needs to be followed and enforced. And the pay gaps in the Federal Wage System (FWS) need to be eliminated.

Another option is full collective bargaining for federal employees, as in the private sector, which would provide a more cogent solution to the pay gaps. Full collective bargaining for federal employees will be the mechanism to provide pay and benefits that correspond to the private sector; eliminate any thought to the ill-conceived “personnel demonstration projects”; and deal with the discretionary spending decline of 1% of the President’s FY 2003 budget as noted by the Congressional Budget Office (CBO). Such bargaining will provide the agencies the ability to retain and recruit the best and brightest for our government and the taxpayers of America.

In closing, NFFE FD 1,IAMAW again thanks you for the opportunity to have input in the process. Our union appreciates this Subcommittee attempt to deal with the problems that exist and supports viable solutions to the issues.

This statement is respectfully submitted by Richard N. Brown, Directing Business Representative, NFFE FD 1,IAMAW and, Frank Carelli, Director Government Employees Department, IAMAW, AFL-CIO.